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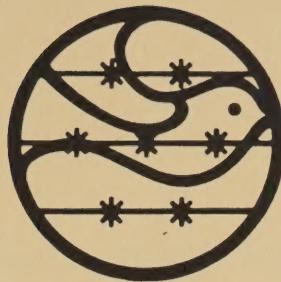
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**Critiques of the Department of External Affairs'  
Country Profiles**



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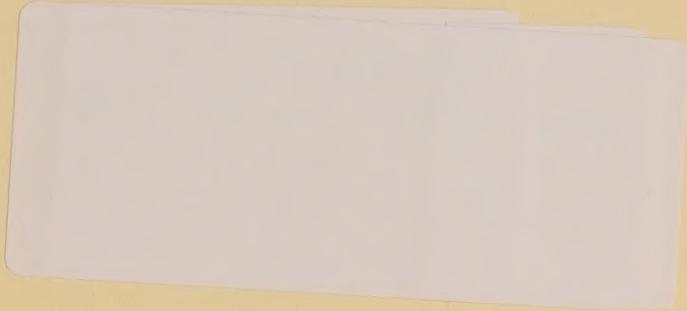
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**CRITIQUES OF THE  
DEPARTMENT OF EXTERNAL AFFAIRS'  
COUNTRY PROFILES**

**January 1992**



## THE INTER-CHURCH COMMITTEE ON HUMAN RIGHTS IN LATIN AMERICA

The Inter-Church Committee on Human Rights in Latin America (ICCHRLA) is one of a number of coalitions through which the major Christian churches in Canada work together on national and international issues of social justice. In doing so they are attempting to be faithful to the Gospel's call to work with the oppressed in their efforts to achieve basic rights and human dignity.

ICCHRLA maintains close relations with churches, human rights bodies and other representative groupings in those Latin American countries given priority by member churches on the basis of human rights concerns and Canadian Church relationships. Through regular on-site visits and the careful monitoring of reports and documentation, the committee continually assesses the human rights situation in these countries. It responds to requests for action in crisis situations, but attempts also to work on the underlying causes of human rights violations. The Committee shares its information, analysis and policy recommendations with its own church constituencies, with the Canadian government and the public at large, and with appropriate international human rights bodies.

### ICCHRLA is formed and supported by the:

Anglican Church of Canada

Canadian Council of Churches

Council of Christian Reformed Churches in Canada

Evangelical Lutheran Church in Canada

Presbyterian Church in Canada

Religious Society of Friends (Quakers)

Roman Catholic Church in Canada

\* Canadian Conference of Catholic Bishops

\* Canadian Catholic Organisation for Development and Peace

\* Canadian Jesuits (Upper Canada Province)

\* Canadian Religious Conference of Ontario

\* Congregation de Notre Dame

\* Oblates of Mary Immaculate (Oblate Conferences of Canada)

\* Scarboro Foreign Mission Society

\* School Sisters of Notre Dame

\* Sisters of St. Joseph (Hamilton)

\* Sisters of St. Joseph (Toronto)

\* Ursulines of the Chatham Union

United Church of Canada

The Latin American Working Group of Toronto and the Comite chretien pour les droits humains en Amerique latine of Montreal maintain a consultative relationship with ICCHRLA.

**CRITIQUES OF THE DEPARTMENT OF EXTERNAL AFFAIRS'  
COUNTRY PROFILES FOR LATIN AMERICA (1991)**

**January 1992**

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**APPENDIX**

**Department of External Affairs Country Profiles**





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## Introduction

For the past twelve years, the Inter-Church Committee on Human Rights in Latin America (ICCHRLA) has participated with other Canadian NGOs in annual consultations held by the Department of External Affairs prior to the UN Commission on Human Rights in Geneva (UNCHR).

Since 1986, External Affairs has prepared a briefing book for the consultations in which it provides short assessments of the human rights situation in a number of countries, several of which appear on the UNCHR agenda. Over the years, those briefs have sharpened from focusing largely on aid and trade relations to providing a stronger human rights framework. In January, 1992 External Affairs produced brief assessments of seven countries in the Americas, five of which ICCHRLA has produced reports on.<sup>1</sup> Briefs on countries in the Middle East, Africa, Asia, and Eastern Europe were also prepared by the Department.

For the first time, ICCHRLA has taken the opportunity to critique these briefs. ICCHRLA has based its critiques on the findings of its 1991 annual reports. The committee offers these critiques with the intention of challenging the Canadian government on a variety of human rights issues. It is also hoped that they will encourage External Affairs to produce more comprehensive country briefs in the future. Finally, they are offered as a way of furthering the dialogue between ICCHRLA and the Canadian government.

## General Concerns

In the course of developing the critiques, ICCHRLA identified issues that were common to a number of the briefs. Below are ICCHRLA's concerns about these common issues.

### Stated Intentions vs. Reality

In a number of the reports, too much credit is given for what are still for the most part only stated intentions of governments to improve human rights. While governmental human rights commissions have been established and human rights ombudsmen have been appointed in a number of countries, there is little concrete evidence to date to suggest that they have effectively improved the human rights situation in their respective countries.

Many Latin American countries are signatories to international human rights conventions and all have constitutions and laws protecting the rights of their citizens, yet there continue to be gross and systematic abuses continue to occur. The government of Canada therefore, should not place too much faith in stated intentions, but rather base its assessment on the actual human rights situation in a country, calling on governments to respect the laws and conventions to which those countries are signatories.

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<sup>1</sup> The five countries are Peru, Colombia, Chile, Guatemala and El Salvador.

### Human Rights as an "Image" Problem:

While ICCHRLA recognizes the importance of establishing governmental mechanisms to address human rights, many countries have established these mechanisms merely to deflect criticism and improve their image abroad. To consider human rights abuses as an image problem inevitably results in a tendency to downplay abuses, attribute authorship to forces outside governmental control or present an overly optimistic view of steps taken to prevent their occurrence.

ICCHRLA is also concerned that public relations efforts, like those recently undertaken by the Guatemalan government here in Canada and Europe, should not be confused with genuine improvements in human rights.

### Accountability of Civilian Governments:

ICCHRLA is concerned at the apparent unwillingness on the part of the Canadian government to hold elected governments accountable for continuing gross and systematic human rights abuses. In most, if not all the countries examined, the presidents are, technically speaking, Commander in Chief of the Armed Forces. As such, many possess administrative mechanisms to remove from active duty those military personnel involved in human rights abuses. Instead, they often act as apologists for the military, sometimes even promoting those who are known rights abusers. Civilian governments and their leaders must therefore be held responsible for controlling violations perpetrated by their military and security forces.

Statements made in 1991 by the presidents of Peru and Guatemala, also raise serious concerns about their "genuine goodwill". Both men have denounced non-governmental human rights defenders in their countries. The Canadian government should strongly condemn such dangerous denunciations when they occur. It should also work at establishing stronger contacts with non-governmental human rights organizations, in order to obtain alternative views not offered by governmental human rights commissions and to provide some protection to these organizations.

### The Wall of Impunity

In addressing the issue of impunity, the External Affairs briefs focus on those extremely rare cases in which arrests and/or convictions have occurred. In highlighting the trial of the Jesuit case in El Salvador, for example, the false impression is given that impunity is effectively being addressed. These rare cases have not destroyed the wall of impunity constructed around the military and security forces in any of the countries examined by External Affairs.

There is also a tendency to address human rights violations as the problem of "individual", undisciplined members of the armed forces in a given country and not recognize the systemic and systematic nature of the violations. In other words, the problem must be understood as an institutional one, not merely an individual one.

The briefs also fail to point out that, as in the case of Peru, military personnel have been tried for human rights abuses in military rather than civilian courts. Nor is mention made of the

nature of the sanctions or the ways in which justice is impeded through threats to witnesses, lawyers, etc.

#### Recent Events vs. Long-term Trends:

The briefs tend to emphasize short-term improvements such as "a reduction in the number of reported disappearances has been noted in recent weeks" in Peru, without placing them in the framework of long-term trends. The recent arrival of ONUSAL in El Salvador and the first year of the presidency of Serrano in Guatemala, are also given an overly-optimistic gloss and are not examined in the complex context in which they function.

Likewise, recent negative trends are glossed over or simply not addressed, as in the case of the new decree laws in Peru which militarize the country and erode even further, basic civil rights.

#### The Case for Analysis

Due to their shortness, the briefs often fail to adequately address or even to mention key issues or events in a given country. In the brief on El Salvador, the fundamental theme of the peace process is given only passing reference. In Guatemala, the dialogue between the URNG is not dealt with at all.

This lack of more comprehensive analysis leaves one with a vague, even inaccurate, impression of the human rights situation in a given country. Sweeping generalizations which list human rights violators without accurately detailing the violations both qualitatively and quantitatively, causes confusion. It is essential that violations be accurately documented and, as was mentioned earlier, responsibility accurately assigned to the violators.

Attached are ICCHRLA's five critiques and the briefs of the Department of External Affairs on Colombia, Chile, Peru, Guatemala and El Salvador.

## Critique of the Department of External Affairs' report on the "Human Rights Situation in Chile" (1991)

External Affairs' report on the human rights situation in Chile provides a brief although fairly accurate assessment of the major human rights issues in Chile during 1991. In general terms, ICCHRLA concurs with External Affairs' assessment that there has been an improvement in the human rights situation in Chile. The committee believes however that it is an overstatement to characterize this improvement as "dramatic". Such a qualification glosses over the reality of the situation: General Pinochet remains head of the army; the repressive apparatus established by the Pinochet dictatorship has not been dismantled; many of the nation's key institutions remain dominated by Pinochet appointees who continue to impede the approval of several long-awaited reforms; impunity for human rights violators continues and most important, serious human rights violations have continued to occur.

In its introduction, the report states that 65 political prisoners inherited from the Pinochet regime remained incarcerated at the end of 1991. The report provides some context to the situation and correctly asserts that "**the [Chilean government's] failure to definitively resolve the issue of political prisoners after nearly two years in office is increasingly damaging to its image**". The report notes President Aylwin's declarations that "**he fully intends to make use of the powers granted him to pardon and or reduce the sentences of political prisoners**". It neglects to mention however that the President can only exercise these powers for the prisoners who have already been sentenced. The majority of those remaining have never been sentenced. The report notes President Aylwin's expressed commitment to resolve the situation of the remaining political prisoners "**prior to Christmas**" 1991. This was not achieved. By the end of January 1992, there were still 61 prisoners incarcerated.

In reviewing the plight of political prisoners in Chile, External Affairs does not adequately convey the basic injustice of this situation: In a November 1991 letter to ICCHRLA, Jose Antonio Viera Gallo, President of the Chilean House of Deputies, conceded that "**some of the prisoners have been held for more than ten years ... many of them were subjected to every type of torture and coercion by members of the security forces of the previous regime.**"

The report of the Commission of Truth and Reconciliation (the Rettig Commission) is briefly mentioned and identified as a "**report on the victims of abuses**". It should have been noted that, while an important effort, the Rettig Commission's mandate was limited to studying only those cases resulting in death or disappearances. Cases of torture, rape, arbitrary detention, exile and other violations, of which the Vicariate of Solidarity has files on more than 40,000 victims were not dealt with. Moreover, the Commission had no subpoena or prosecutorial powers nor could it identify individual violators.

External Affairs' report places an unwarranted positive gloss on the few cases where military officials have been arrested and charged with human rights abuses. The report claims that the situation of impunity for the military "**may be changing**" and cites two examples to substantiate this assertion. No mention is given to the military junta's 1978 Amnesty Law which leaves without sanction crimes committed by the military regime between 1973 and

1978. Nor does the report indicate that the Chilean Supreme Court, of which all but two members are Pinochet appointees, has maintained the position that not even international human rights treaties ratified by Chile which expressly prohibit the amnesty of crimes against humanity, override the junta's decree law.

With regard to the two cases outlined in the report, it should be noted that the Letelier-Moffit case is rather an exceptional one. This crime, committed by the Chilean intelligence service (DINA) in Washington D.C., resulted in an amendment to U.S. law, prohibiting economic and military aid to Chile until sufficient progress was made in prosecuting those responsible. Clearly the significant external pressure exercised by the U.S. government is the main factor behind progress in this case. Subsequent to the writing of the External Affairs' report, Generals Manuel Contreras and Pedro Espinoza were released on bail on December 26. As for the second case, which presumably relates to army Lieutenant Laureani, responsible for three cases of enforced disappearances in October 1974, this case is presently at an impasse.

With regard to human rights abuses committed since the Aylwin government took office, the report states that "incidents do ... occur". It goes on to affirm that there have been "more than 30 allegations of torture since March 1990" and correctly identifies the principal author as being the "Carabineros". ICCHRLA does not believe that the continued use of torture reflects official policy of the Aylwin government. At the same time the Chilean government has sought to downplay the nature of these very serious abuses, in its hopes of avoiding a potential confrontation with the Carabineros. External Affairs' report should have noted concern with regard to this situation and should have called upon the government of Chile to publicly express its repudiation of these methods and sanction those responsible. The report also neglected to mention other abuses which have occurred, among them the continued use of unnecessary force by Chilean police (including tear gas and clubs) against participants in peaceful demonstrations.

The report anticipates that "the government might be preparing the country for the declaration of a general amnesty" and states that "should the Chilean government decide that an amnesty is the best means of reconciling the divisions within Chilean society, we would respect its decision". ICCHRLA believes that this statement blatantly contradicts the Canadian government's position expressed at the 1991 session of the U.N. Commission on Human Rights that Canada was "optimistic ... that the [Commission on Truth and Reconciliation] will produce substantive results towards resolving the identity of those responsible for abuses in the 1973 - March 11, 1990 period" and that "It is our hope that justice will be rendered". ICCHRLA believes that the issue of impunity for people responsible for crimes against humanity is an issue which affects the community of nations. It is not limited, as the report would indicate, to "the left as well as families of the victims". As stated in ICCHRLA's 1991 "Annual Report on the Human Rights Situation in Chile": "Allowing the guilty to walk free without fear of prosecution for past deeds assures military and police personnel that they can continue to act with impunity. The new cases of torture in Chile by the carabineros and investigations' police clearly demonstrate this.

## **Critique of the Department of External Affairs' report on the "Human Rights Situation in Colombia" (1991)**

External Affairs' report on Colombia fails to provide a reliable portrait of the human rights situation in that country. The report places developments in the most favorable light, downplays the prevalence of certain reprehensible practices, and shies away from tracing accountability to the government and the military as an institution for human rights violations.

In its introduction, the report claims that "**Colombia has been a focus of international attention due to the nature and extent of its human rights problems**". It is true that year after year, a consistent pattern of human rights abuses in Colombia has been signalled by many international organizations including Amnesty International and the United Nations' Working Group on Enforced or Involuntary Disappearances (WGEID), Special Rapporteur on Torture and Special Rapporteur on Summary or Arbitrary Executions. In spite of this, there has been an unexplainable silence on the part of the international community, including the Canadian government, towards human rights violations in Colombia. To a much greater extent, attention has focussed on the violence engendered by the drug trafficking industry. While the drug cartels have been responsible for a great deal of violence in Colombia, they are not the main actor responsible for political violence.

The report asserts that "**Despite its well established democratic political system, Colombia has experienced a great deal of internal violence in recent years**". The positive characterization of Colombia's political system gives an incomplete picture of the Colombian reality. While it is true that, prior to the adoption of a new Constitution in 1991, Colombia had one of the oldest Constitutions in the Americas, it should not be forgotten that Colombians lived under a continuous state of siege for most of the past 41 years. The heavy handed exercise of presidential decrees and restricted, authoritarian form of government made parliament almost irrelevant as a law making body.

It is true that the political system, previously under the tight control of the two traditional parties, has opened up somewhat in the past year and a half with the demobilization and incorporation into political life of several insurgent groups. Despite this opening, members of political opposition parties continue to face systematic persecution. The most notable example is the Patriotic Union which has had approximately 1,500 of its members assassinated since the party was formed in 1985. The new political formations are also being hit by political assassinations: during its first year as a legal party, the movement "Esperanza, Paz y Libertad" (formerly the Peoples Liberation Army) had at least 52 of its members assassinated. These and other related problems have resulted in a loss of credibility in the democratic system among large sectors of the Colombian electorate. This disillusionment may be reflected in the high abstention rate (68% in the October 1991 elections for Congress and Senate).

The report correctly notes a number of steps taken by the Colombian government during 1991 to "**reduce violence and to improve the situation of human rights in the country**".

ICCHRLA concurs that many of these initiatives are significant and do have the potential to meet the above stated objectives. However, the report gives no attention to the many well-founded concerns expressed by Colombia's human rights community regarding the negative aspects of these same changes.<sup>2</sup> Nor does it note that to date these initiatives have not resulted in a quantitative reduction in violence or an end to the human rights violations in Colombia. According to the Inter-Congregational Commission on Justice and Peace, there were 3,129 disappearances and deaths for political or presumably political reasons during the first nine months of 1991. This figure represented 200 more than for the same period in 1990.

One of the elements signalled as positive in External Affairs' report concerns changes to the administration of justice. The Andean Commission of Jurists (CAJ), on the other hand, has qualified these reforms as "antidemocratic". Two of the most disturbing sets of decrees under the former State of Siege have now been incorporated into permanent legislation. The Statute for the Defence of Justice restricts important legal guarantees. Presumption of innocence is threatened by several articles which state that the detainee is always an offender. The new system allows secret judges, witnesses, prosecutors, investigators and, if the judge considers necessary, even case evidence can be withheld from the accused.

In its discussion of the peace process, the report affirms the positive steps which the government has taken to encourage the pacification of insurgent groups and notes that it "entered into negotiations with the remaining guerrilla groups in an attempt to stem the violence resulting from confrontations between the military and the guerrillas". What the report neglects to mention is that the negotiations with the guerrilla coordinator have been undertaken simultaneously with an increased number of aerial bombings and attacks to rural areas where these groups maintain a presence. In early 1991 President Gaviria imposed a war tax, which was expected to give the army and police another US \$100 million. Included in the plans are the creation of two new "Mobile Brigades" – which have been notorious for human rights violations.

In attempting to identify the major actors in the violence and killing in Colombia, the report signals "the guerrillas, the military, the para-military and self defence groups and criminal organizations involved in the drug trade." The report goes on to state that "the main violations of human rights have often resulted from confrontations involving these groups". While the situation of political violence in Colombia is a complex issue, External Affairs does little to clarify the nature and quantity of abuses committed by the groups listed. The order is misleading, giving the impression that the guerrillas are responsible for most of the violence and killing in Colombia. As previously stated, it is not an easy task to identify in every case those responsible. Nonetheless, the methods used and identity of the victims clearly indicate that the paramilitary groups and members of the security forces are responsible for most of the deaths. This was also the conclusion reached by the United Nations Special Rapporteur on Summary or Arbitrary Executions during his visit to Colombia in late 1989.

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<sup>2</sup> For more information regarding these concerns, see ICCHRLA's 1991 Annual Report on the Human Rights Situation in Colombia.

The claim that "torture is sometimes used to extract information" seriously understates what is recognized as a pervasive practice in Colombia. In a report delivered in September 1991, Colombia's Attorney General (Procurador General de la Nacion) himself reported that between January 1990 and April 1991, the Special Attorney Delegate for Human Rights had received 644 complaints of torture by state agents.

The report notes that "individuals in the army and the police have been found guilty – through negligence, complicity or active participation – in human rights violations". This characterization leaves the inaccurate impression that human rights violations by state security forces are merely the isolated acts of "individuals". Clearly, the systematic pattern of human rights abuses in Colombia added to the impunity enjoyed by the military, point to the involvement of the police and armed forces as institutions. This statement, together with External Affairs' assurances that "the Government has in place a system to investigate alleged violations of human rights by state organizations" also leaves the inaccurate impression that the issue of impunity is being adequately addressed. While there were some improvements over previous years, noted in ICCHRLA's 1991 Annual Report on the Human Rights Situation in Colombia, there has been no substantial change in the impunity enjoyed by military personnel.

In its conclusion, the report notes that "the Canadian Embassy in Bogota maintains close contacts with the office of the Presidential Advisor for the Defence, Protection and Promotion of Human Rights". No mention is given to similar contacts with Colombia's non governmental human rights community. In its most recent report on Colombia, the US-based human rights organization Americas Watch stated, with respect to the office of the Presidential Advisor on Human Rights (known in Colombia as the "Consejeria"):

"The purpose of the Consejeria's participation in international fora is, by the office's own admission, to improve Colombia's image abroad. The domestic counterpart of this function is that the Consejeria strives at home to attribute responsibility for violence to forces outside the control of the government, again to drug trafficking, subversion and common crime. Significantly, this theory matches the explanation given by military leaders for Colombia's human rights problems. It is an explanation that ignores the government's responsibility for the actions and omissions of its agents."<sup>3</sup>

While acknowledging that "Canada deplores violations of human rights in Colombia", the report gives no indication of any specific action Canada is prepared to undertake at the upcoming session of the United Nations Commission on Human Rights. In view of the pattern of systematic human rights abuses in Colombia, ICCHRLA strongly urges the Canadian government to raise the issue of Colombia under item 12 of the UNCHR agenda and work towards the appointment of a Special Rapporteur.

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<sup>3</sup> Americas Watch, The "Drug War" in Colombia: The Neglected Tragedy of Political Violence, Washington, D.C., October 1990, pp. 101-102.

## **Critique of the Department of External Affairs' report on the "Human Rights Situation in El Salvador" (1991)**

The Inter-Church Committee on Human Rights in Latin America (ICCHRLA) concurs with the government of Canada that "**the state of human rights in El Salvador remains a matter of serious concern**". ICCHRLA is concerned however, that the report places developments in the country in an overly optimistic light. Since the signing of the peace agreement on December 31, 1991, ICCHRLA partners, particularly in the churches, have received numerous death threats and have been illegally arrested and detained. It is clear that while peace has been reached on paper, the road to making it a living reality in El Salvador remains a long one. Civil society will require tremendous international support and attention in order to realize that peace.

In addressing the "issue" of human rights in El Salvador, External Affairs focuses on the report of the United Nations Special Representative to El Salvador, Pastor Ridruejo, presented in September, 1991: "**The report again underscores the essential link between the Salvadoran civil conflict and human rights violations**". While an end to the conflict is indeed essential, it is incorrect to assume that in order to improve the human rights situation, one need simply to end the war. The conditions which led to civil conflict in El Salvador over a decade ago included violations of civil, political, economic and social rights. Therefore, an end to violations will require not just an absence of war, but fundamental changes in the structures of power which perpetuate gross and systematic human rights violations in El Salvador.

External Affairs also indicates that Ridruejo's report "**reaffirms the persistence of serious violations, perpetrated by extremists on both sides of the conflict**". Such a statement incorrectly places equal blame for violations on the FMLN and the Salvadoran army and security forces. As ICCHRLA's 1991 "Report on the Human Rights Situation in El Salvador" indicates, violations attributed to the Salvadoran army and security forces far outweigh those committed by the FMLN and blame should be apportioned accordingly. It is also important to indicate that violations committed by the FMLN fall largely under the rubric of international humanitarian law and the rules of war, while those committed by the army and security forces are in large part human rights violations.

The "background" provided in the External Affairs report deals with two issues: judicial and constitutional reforms. The discussion of judicial reform focuses largely on the trial of the Jesuit case: "**the Government of Canada believes that this trial and convictions represent significant progress**". ICCHRLA, as well as colleagues at the Human Rights Institute of the University of Central America (IDHUC) in San Salvador, and the Canadian Jesuits (Upper Canada Province), believes this view is entirely inappropriate. The extraordinary circumstances under which the investigation was conducted and the accused brought to trial, was due in large part to tremendous international pressure.

Subsequent, important trials which did not receive the same international attention - the "Well of Death" case and that involving the alleged murderer of human rights leader, Herbert Anaya -produced wholly unsatisfactory verdicts. The trial must therefore be seen for what it

is: an extraordinary event which, while it may have briefly removed a brick in the wall of impunity in El Salvador, shows no indication of bringing about "progress" in the destruction of that wall.

In addressing the issue of constitutional reform, the report makes particular mention of "the creation of the office of Human Rights Ombudsman, the establishment of a "Truth Commission", and measures to increase the independence of the judiciary." While such reforms are without doubt essential, it remains to be seen the manner in which new institutions are structured and are able to carry out their work. Already, the comprehensiveness with which the Truth Commission will be able to address the issue of human rights violations of the past decade has been challenged by the government and the Armed Forces. There are also concerns that a general amnesty may render the work of the commission irrelevant. In order to be effective therefore, constitutional reforms must dismantle the institutions and structures, both formal and informal, that have perpetuated the gross and systematic violations of human rights in El Salvador. As Monsignor Rivera y Damas stated,

*"It is true that the moment of mercy must arrive, but not before the paths of justice are travelled ... In more technical terms, the process must have three stages: one, judicial truth; two, punishment; and three, pardon. Only thus can we build national reconciliation upon a firm rock."*

The report goes on to say that "**the implementation of these measures, and the presence of ONUSAL, should assist in improving the human rights situation in El Salvador**". The United Nations Observer Mission in El Salvador (ONUSAL) has provided important international monitoring of the human rights situation. But the mission has no executive powers, relying on moral suasion and the good will of each side in the conflict to comply with the terms and conditions of the San Jose Human Rights accord. ONUSAL has been threatened by right wing "shadow" groups. Pressure from the Salvadoran government and armed forces, is believed to have contributed to ONUSAL reports that, in their "objectivity", provide a false symmetry when documenting human rights violations. As with the Ridruejo report, ONUSAL gives equal treatment of violations by each side even though violations by the armed forces far outweigh those of the FMLN. As the mandate expands during the ceasefire period, its effectiveness will, in large part be determined by the support the international community is willing to provide it.

The "Canadian position" while it indicates that "**at the 47th session of the UNCHR Canada supported the continuation of the mandate of the Special Representative for El Salvador**", does not offer any indication of what position Canada will be taking at the 48th session. In reviewing the External Affairs report, ICCHRLA expects that until both the formal and informal structures of repression in El Salvador have been dismantled, the Canadian government will actively support the continuation of the mandate of the Special Representative for El Salvador.

## **Critique of the Department of External Affairs' Report on the "Human Rights Situation in Guatemala" (1991)**

In reviewing the External Affairs report on the human rights situation in Guatemala, the Inter-Church Committee on Human Rights in Latin America (ICCHRLA) is concerned at the expressed confidence in the efforts of President Serrano to improve the human rights situation in Guatemala and at an apparent unwillingness on the part of the Canadian government to hold him accountable for the continuing gross and systematic human rights violations taking place in Guatemala.

In addressing the "issue" of human rights violations in Guatemala, the report points to "**a volatile combination of poverty, resistance to change of conservative social elements, endemic violence and insurgency**". While each is a contributing factor, this statement fails to acknowledge that the predominant source of human rights violations lies with the military and security forces responding to the struggles for justice of Guatemalan civil society. It also fails to differentiate between the violence of common crime resulting from poverty and violence of the structures and institutions of oppression.

The national elections, which brought President Serrano to power in January, 1991 are described in the report as, "**the first succession of civilian presidents in Guatemalan history**". What the report fails to mention is the high level of campaign violence which left ten politicians dead. Voter abstention was also very high indicating a lack of confidence in electoral democracy on the part of many Guatemalans. No attention is given to the dialogue process presently underway between the Guatemalan government and military and the Guatemalan National Revolutionary Unity (URNG), which is viewed by ICCHRLA's partners as the only hope for bringing about effective participatory democracy in the country.

External Affairs refers to the work of the Independent Expert for the UN Commission on Human Rights, Dr. Christian Tomuschat. While ICCHRLA welcomes the important work of Dr. Tomuschat, it is concerned that there is an inherent contradiction in his role of maintaining a positive relationship with the Guatemalan government and military in order to provide "advisory services" and at the same time providing the UNCHR with a critical, objective report of the human rights situation. Although the report mentions the visit of Dr. Tomuschat to Guatemala in October, 1991, it does not point out that during his visit, he witnessed the bombing of one of the Communities of Population in Resistance (CPRs). This incident raises serious questions about the willingness of the Guatemalan army to take seriously Dr. Tomuschat's advisory services.

In the "background" section of the report, External Affairs focuses on the efforts of the civilian government to improve the human rights situation in the country stating that, "**the re-establishment of civilian rule in 1985 saw an end to systematic abuses by the government**". Is this statement made to reflect the fact that because the military is no longer the government, systematic abuses no longer take place under the aegis of the government? More importantly, is not President Serrano, in fact, the commander-in-chief of the Armed

Forces as he has stated on numerous occasions? This being the case, the government must be held responsible for the continuing systematic abuses by the military and security forces.

The report points to a number of "important steps that have been taken to improve the human rights situation" since President Serrano's inauguration. But the grim statistics testify to the fact that the fundamental issue of impunity remains untouched. Increased activity by the office of the Human Rights Procurator, while important, should not be equated with greater commitment and political will on the part of the government of Guatemala to improve the human rights situation in the country, nor should replacing a member of the military with a civilian as head of the National Police, or Ministry of the Interior. The structures of power which perpetuate gross and systematic human rights violations remain firmly entrenched.

It is also important to point out that while there may be "some progress in providing more 'space' for political expression and dissent", it has been obtained, not by the will of the Serrano government, but by the tireless efforts of those Guatemalans who continue to struggle for and demand justice. The price paid to obtain any space has been very high. As the report correctly points out, "human rights and trade union activists work at extreme peril". In 1991, 90% of the Guatemalan trade union leadership was threatened with death and 20 activists were forced to flee the country. Eight members of the Council of Ethnic Communities, Runujel Junam (CERJ) were assassinated.

The report states that, "the media continues to practice self-censorship", but does not explain that this is because of direct violence targeted at journalists and because of an ever-present climate of fear and intimidation, which in 1991 included death threats, ransacking of offices, an attempted bombing and the assassination of foreign correspondent Anson Ng.

The report also points to increasing death squad activity and "groups apparently linked to the security forces" who continue to operate with impunity. But no mention is made of the impunity with which the security forces and the military themselves carry out gross and systematic human rights violations, nor does it mention the well-documented violations perpetrated by the civil patrols who are directly, not just "apparently" linked to the military.

In light of the Canadian government's expressed concern about the human rights situation in Guatemala, ICCHRLA is extremely concerned that the External Affairs report does not indicate a strong commitment to actively pursue placing Guatemala under Item 12 (Violations of Human Rights in All Parts of the World) at the UNCHR. ICCHRLA strongly encourages Canada to do so.

## Critique of the Department of External Affairs' report on the "Human Rights Situation in Peru" (1991)

The Department of External Affairs' report on the human rights situation in Peru correctly affirms that 55% of the Peruvian population and 40% of the national territory are under "direct military control, devoid of civil liberties, including *habeas corpus*." It acknowledges that "extrajudicial executions, torture, beatings and rape are common" and identifies some of the sectors which have been affected by political violence.

In its introduction, the report expresses Canada's wholehearted endorsement of the economic policies of the Fujimori government and insists that these have resulted in "consequent economic improvements and better prospects for the future". All the evidence ICCHRLA has received points to the contrary. Peruvian partners have been unequivocal in asserting that the social impact of the structural adjustment programs of the Fujimori government have been devastating and have resulted in a dramatic erosion of the same social and economic rights articulated so clearly by Prime Minister Mulroney in his address to the International Assembly of French-Speaking Parliamentarians in September 1991. Prior to the Fujimori government's shock programs, it was estimated that 8 million Peruvians were living in condition of extreme poverty: now that number has risen to 13 million out of a total population of 22 million.

In a letter dated January 16, 1992, Mons. Jose Dammert, President of the Peruvian Catholic Bishops' Conference expressed his concern to ICCHRLA about this distorted view of the Peruvian situation. He states:

"[W]hile it is true that the current government has succeeded in significantly decreasing the problem of hyperinflation, it must be noted that in order to accomplish this objective, the economic policies applied respond to such a purely theoretical model of classical liberalism that in the practice almost no concern has been shown for those sectors of the population who live in conditions of misery...The current Minister of Economy has actually stated publicly that economics is a purely technical issue with no need for ethical reflection".

An important omission in the report concerns the situation of enforced disappearances. While the report briefly acknowledges that 385 cases of disappearances were reported during the first year of the Fujimori government, it fails to mention the pervasiveness of the problem in Peru: for the past five consecutive years, Peru has been cited by the United Nations Working Group on Enforced or Involuntary Disappearances (WGEID) as the country where the greatest number of disappearances have been recorded. Indeed, the report glosses over the phenomenon, asserting that "a reduction in the number of reported disappearances has been noted in recent weeks". It is true that there was a reduction in the complaints received in the last quarter of 1991, however the report fails to note that during the same period, there

was a considerable increase in the numbers of political assassinations carried out by paramilitary groups, believed to be linked to the state security forces.

In attempting to identify the groups responsible for human rights abuses in Peru, the report signals "1) Sendero Luminoso (SL), 2) Movimiento Revolucionario Tupac Amaru (MRTA), and 3) the military forces in their effort to counter the insurgency." A fourth category, notably paramilitary groups and death squads should also have been listed. During 1991, these groups carried out numerous assassinations in Lima as well as in the provinces. The nature of these attacks would indicate collusion of the state security forces. One example of this was the November 1991 massacre of seventeen people, including a 9 year-old child, in Lima. Despite evidence gathered by the press and members of the Peruvian Congress which point to the involvement of the army intelligence service, the Fujimori government has not initiated a special investigation.

The sequence in which External Affairs lists those responsible for abuses is also misleading, giving one the impression that the order corresponds to the quantity of abuses committed. While it is true that Sendero Luminoso was responsible for the majority of political assassinations during 1991, the military forces were clearly second in terms of quantity. In recent years, each side has been responsible for roughly half of all political killings. The MRTA was responsible for 1.63% of the total number of political assassinations in 1991, according to Peruvian human rights organizations, making it a secondary actor in terms of political violence.

The repeated assertion by External Affairs that abuses conducted by the military "continue as a result of the government's struggle against terrorist organizations" leads to the inaccurate impression that all abuses by state forces are committed within the context of counter-insurgency operations. Moreover, this same argument is frequently invoked by the Peruvian government as the reason why violations are occurring. While it is true that the Peruvian government is faced with the most ruthless insurgency in the Americas, this can in no way be used as justification for systematic rights abuses by government forces. Nor does it release the Peruvian state from its international obligations to ensure that human rights are protected.

External Affairs' affirmation that the indigenous population are caught "between the terrorists and frequently undisciplined military forces" also gives the inaccurate impression that violations committed by government forces are isolated abuses by untrained elements of the security forces. The consistent pattern of abuses in Peru as well as the impunity enjoyed by the armed forces clearly show that this is not the case. As reported in ICCHRLA's 1991 "Annual Report on the Human Rights Situation in Peru", a document of the Joint Command of the Armed Forces of Peru, authorizing the military to eliminate subversives and dispose of their bodies clandestinely, was leaked to the media in July 1991. The Minister of Defense, General Jorge Torres Aciego, confirmed the authenticity of the document but claimed it was a draft and does not represent official policy.

The report's assertion that it is often difficult to determine responsibility for the violence as "terrorists often masquerade as military personnel and military patrols have been known to cover their actions to make them appear to have been perpetrated by the SL" is misleading. Firstly, it has been much more common for the military to masquerade as

Sendero Luminoso than vice-versa. Sendero has demonstrated little concern for its image whether in Peru or internationally. Secondly, it should be noted that in any case, the difficulty encountered in determining responsibility has been less related to the fact that one group may attempt to masquerade as another, which, while it does happen, has not been a particularly prevalent phenomenon. Rather, the difficulties have been much more related to communications problems due to the remoteness of the areas where the abuses have occurred as well as the generalized climate of fear, given the notorious level of impunity in Peru. In 1991 a new element compounding the problem of identification of those responsible for abuses was the resurgence of paramilitary and death squad activity. This, much more than the issue of "masquerading", has served to obscure responsibility.

The report states that serious human rights violations, including 2,503 deaths due to political violence and 385 cases of disappearances were reported during the first year of the Fujimori government "**despite the genuine goodwill of the President**". This statement appears to absolve the government, in particular the President who, technically speaking, is Commander in Chief of the Armed Forces, of responsibility for controlling its military. Moreover, the declaration itself is highly questionable. President Fujimori has insisted on promoting military officers responsible for serious human rights abuses and has attempted to implement legislation which would grant virtual impunity to any military officials engaged in human rights violations. Throughout 1991 he promoted the establishment of civil defence patrols, many of which have been implicated in serious rights abuses. In November 1991, he introduced a package of 126 decrees which militarize the country even further, increasing the powers of the armed forces to act without respect for basic civil liberties. The November 1991 decree laws, which are not referred to in External Affairs report, seriously call into question the government's political will to promote basic respect for human rights.

The report also claims that the Peruvian government has shown "**greater cooperation with international human rights groups**" and cites as examples, Amnesty International, Americas Watch and the World Council of Churches (WCC), among others. This assertion clearly misrepresents the facts. While the President received a WCC delegation in 1990, he did not accept a request to meet with a second delegation in October 1991. The 1990 delegation presented the President with eight cases of human rights abuses committed by state agents during the first three months of his tenure. Despite assurances by President Fujimori that these cases would be investigated and that he would inform the WCC of the results, no news has been received from the government of Peru with regard to these cases. A few days prior to the October 1991 visit of the WCC, President Fujimori publicly attacked Peru's human rights community, calling them "useful idiots" of the terrorists and "the legal arms of subversion". These verbal attacks continued throughout November and December. In response, Peru's National Coordinating Committee on Human Rights presented a complaint before the Inter-American Commission on Human Rights, pointing out that President Fujimori's denunciations place them at even greater risk and asking for protection. International organizations such as Amnesty International and the US human rights group Americas Watch were also repeatedly attacked by the President. External Affairs omission of these important developments is a major shortcoming.

The report speaks of the Peruvian government's new human rights policy, announced in September and claims that "**some obvious improvement has been achieved in promoting human rights**". What the report neglects to mention is the full context under which this "new

human rights policy" was announced. Moreover, it gives too much credit for what are still for the most part only stated intentions. President Fujimori's announcement was made weeks after the US Congress provisionally withheld military aid to Peru and made the release of further military assistance contingent upon a demonstrated improvement in Peru's human rights performance. It was also made days prior to the President's departure for Washington where he was to preside over Peru's "reinsertion" into the international financial community.

One of the improvements signalled by External Affairs is "**the apparent willingness of security forces to prosecute members charged with human rights violations**". One of the conditions specified by the US Congress before releasing military aid to Peru is progress in nine cases of human rights violations. In each of these cases, there is overwhelming evidence pointing to official involvement. Although there have been some developments with regard to two of the nine cases, the remaining seven cases remain blocked. The assertion that there is a "**willingness of security forces to prosecute**" also glosses over the reality of the situation. With respect to the two cases where there have been developments, one of these, the July 1991 massacre of fourteen people, including seven children, at Santa Barbara, is being handled by a military court in which six military personnel are being charged with "crimes committed in the act of duty". In November, the public prosecutor handling the case and the president of the Santa Barbara community were detained and charged with obstructing justice by making false accusations against the Peruvian military. They were released after four days, but continue to fear for their safety. As for the second case, the June 1991 murder of a medical student and two minors, the military court opened proceedings against three police officials only after the case was initiated in a civilian court – presumably to circumvent a verdict in the civilian court. In both cases, witnesses have received death threats. Clearly, impunity continues to be the norm for members of the armed forces and police responsible for human rights abuses in Peru.

The External Affairs' report states that Canada "looks forward to further improvements in the administration of the judicial system and an end to impunity for all human rights violators". It also indicates that Canada will continue to act through the United Nations Commission on Human Rights (UNCHR), through the organs of the OAS and bilaterally to ensure that the human rights situation "continues to improve". ICCHRLA would challenge the assertions that there has been an improvement during the first year of the Fujimori government. The level of political violence has increased, and torture, summary executions and disappearances by state security forces have continued unabated.

ICCHRLA welcomes the various initiatives the Canadian government has taken to heighten international attention to the state of human rights in Peru and particularly welcomes Canada's call for an end to impunity in Peru. Much more is needed. The report does not indicate any particular concrete initiative which Canada, as a member of the UNCHR, is prepared to undertake at the upcoming session of the Commission. Given the pattern of systematic human rights abuses, ICCHRLA strongly urges the Canadian government to sponsor a resolution on Peru and work towards the appointment of a Special Rapporteur.

## **APPENDIX**

Department of External Affairs' Country Profiles are taken from "Consultations in Preparation for the 48th Session of the U.N. Commission on Human Right", January 20 - 21, 1992, prepared by the Department of External Affairs and International Trade.



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UNCLASSIFIED

HUMAN RIGHTS SITUATION IN CHILE

ISSUE:

Since the return to democracy, Chile continues to make sound progress in the field of human rights.

BACKGROUND:

Since it took office in 1990, President Aylwin's "Concertacion" coalition has released all but 65 of the 430 political prisoners inherited from the Pinochet Regime. It has taken major initiatives in the field of human rights and the situation has improved dramatically. The Government responded to a report on the victims of abuses by promising financial compensation and initiating judicial reform to facilitate, inter alia, the transfer of cases from the military to the civil courts. However, the coalition's failure to definitively resolve the issue of political prisoners after nearly two years in office is increasingly damaging to its image within a large sector of its traditional electorate. Two hunger strikes by political prisoners this year have driven home this point.

The President had committed his Government to resolving the issue of the remaining political prisoners prior to Christmas. However, reports now indicate that this may not happen. The Right has stated that releasing the political prisoners would mean the President was reneging on his earlier promise that those convicted of crimes of violence should remain in jail until they had served their full sentences. In response, Aylwin has observed that many crimes of violence have occurred in Chile for which the perpetrators remain immune and that he fully intends to make use of the powers granted him to pardon and/or reduce the sentences of political prisoners. He observed that it is unjust that there have been arrests and trials on one side but not on the other. This may be changing. In September, two generals were arrested and charged in the 1976 assassination of former Foreign Minister Orlando Letelier and his assistant Ronni Moffitt. Appeal charges and a request for provisional liberty were rejected. In December, a former DINA<sup>1</sup> intelligence officer was charged with the kidnapping of left wing activists in 1973.

It is conceivable that the government might be preparing the country for the declaration of a general amnesty.

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<sup>1</sup>Dirección de Inteligencia Nacional (Directorate of National Intelligence) was implicated in a large number of disappearances.

This would deflect criticism from the right and solve the issue of the political prisoners. However, the granting of impunity to those who inflicted the abuses would certainly meet with furious protest from the left as well as from the families of the victims. Given the on going Letelier case it is more likely that the President will continue to make judicious use of the power granted him by Congress to pardon, reduce sentences or grant amnesties on a case by case basis as he has done since taking office. In the meantime, he has introduced legislation designating 30 additional judges to examine the cases of the remaining political prisoners.

Reports by independent organisations continue to provide information showing that the overall human rights trend is positive. Incidents do, however, occur. Amnesty International has received more than 30 allegations of torture since March, 1990. The majority of these are accredited to the military-backed police the "Carabineros". Reforms have been made to the penal code but, the 15 day period of "incommunicado" detention remains unchanged. Extremists armed with automatic weapons and sophisticated explosives have carried out a campaign of random violence. This has largely been directed at American interests and at the Carabineros. Summary "justice" has also been enforced. The two most active groups are believed to be the Frente Popular Manuel Rodriguez and the Movimiento Juvenil Lautaro, both leftist groups.

The international community has responded to Chile's return to democracy by restoring diplomatic relations and lifting all trade restrictions. High level visits have recommenced including many heads of state and the SSEA. For the first time since 1974 the UNCHR will not address the human rights situation in Chile. In the 1991 election to the Commission Chile received the most votes among the seven Latin American candidates.

#### CANADIAN POSITION:

Canada warmly welcomed the return of democracy to Chile and has strongly supported the Aylwin Government's efforts to return the country to normal. Canada's Ambassador recently discussed the question of the political prisoners with Chile's Secretary to the Presidency. He assured the Ambassador that the Chilean Government is very aware of the concerns of Canadian NGOs. We believe that the democratically elected government is fully committed to upholding and promoting human rights and that it has taken a number of important initiatives in this respect including the assessment of each political prisoner on a case by case basis. Two specific cases which had been raised by Canada have since been resolved by releasing the individuals concerned. We applaud the Chilean Government's decision to initiate judicial proceedings against the Army Generals implicated in the Letelier case. Should the Chilean Government decide that an amnesty is the best means of reconciling the divisions within Chilean society we would respect its decision.

ANNEX I

CANADIAN POSITION ON 1990  
U.N. HUMAN RIGHTS COMMISSION RESOLUTIONS:

Resolution 1990/62 simply noted the transfer of the Special Rapporteur's report on human rights in Chile. Canada was satisfied with the report.

Resolution 1990/78 notes that several recommendations for the improvement of human rights in Chile remain pending and asks that Chile report thereon at the 47th Session. Paragraphs 4,5 and 9 of the resolution are relevant. Our position is as follows:

4 (a) Canada is following the work of the Chilean Commission of Truth and Reconciliation with great interest. We remain optimistic that it will produce substantive results towards resolving the identity of those responsible for abuses in the 1973-March 11, 1990 period.

4 (b) Canada looks with favour on the recent judicial reforms encouraging the transfer of some legal cases from the military to the civilian courts. We will continue to offer our support to speed this process so as to allow outstanding human rights cases and cases involving alleged political prisoners to be resolved as soon as possible.

4 (c) There is currently no immunity under Chilean law for anyone guilty of human rights abuses. This remains uncertain for those responsible for abuses committed during the 1973- March 11, 1990 period. It is our hope that justice will be rendered.

4 (d) The archives of the National Information Agency (CNI in Spanish) are still held by the military. We would hope and expect that the military authorities will facilitate promptly, their transfer to the civilian authorities.

HUMAN RIGHTS SITUATION IN COLOMBIAISSUE

Colombia has faced serious internal problems in recent years, including a war with drug traffickers and an ongoing civil conflict situation. There have been many reported cases of human rights abuses related to these internal problems and Colombia has been a focus of international attention due to the nature and extent of its human rights problems.

BACKGROUND

Despite its well established democratic political system, Colombia has experienced a great deal of internal violence in recent years. The assassination of three Presidential candidates prior to the 1990 elections underscored the seriousness of politically motivated violence. Most killings were manifestations of widespread social violence of which kidnapping, disappearances and extortion are also manifestations.

Since the election of Cesar Gaviria as President in 1990, the Colombian Government has taken a number of steps to reduce violence and to improve the situation of human rights in the country. The Colombian Government established a Constituent Assembly which revised the national constitution. Relevant changes included the establishment of the 'Fiscalia-General' which will verify complaints and ensure that they are brought before the courts, the creation of the office of 'Defensor del Pueblo' (Peoples' Defender), the placing of limitations on the Government's ability to invoke state of siege legislation (the Government lifted its seven year old state of siege this summer), and the further entrenchment of human rights. The Government has also taken steps to encourage the pacification of groups engaged in violence. Thus it entered into negotiations with the remaining guerrilla groups in an attempt to stem the violence resulting from confrontations between the military and the guerrillas. (These talks are currently suspended). It also adopted a flexible position with regard to drug traffickers, thus encouraging many of the major traffickers to submit to justice. In addition, the Government took steps to improve the administration of justice, developed a national strategy on violence and appointed a civilian Minister of Defence.

The major actors in the violence and killing in Colombia are the guerrillas, the military, para-military and self defence groups and criminal organizations involved in the drug trade. The main violations of human rights have often resulted from confrontations involving these groups. Civilians caught in the cross-fire are often forced to flee their homes or are made victims of intimidation, extortion and disappearances. Torture is sometimes

used to extract information. Individuals in the army and the police have been found guilty - through negligence, complicity or active participation - in human rights violations. The Government has in place a system to investigate alleged violations of human rights by State organizations.

#### CANADIAN POSITION

Canada deplores violations of human rights in Colombia and supports the efforts of the Government to improve the human rights situation. The Canadian Embassy in Bogota maintains close contacts with the Office of the Presidential Advisor for the Defence, Protection and Promotion of Human Rights. In addition it monitors the human rights situation on an ongoing basis and draws Canadian concerns to the attention of the Colombian authorities. Canada also recognizes the importance of an objective judiciary in safeguarding human rights and has supported projects to improve the delivery of justice and to establish a network of human rights ombudsmen at the local level.

## HUMAN RIGHTS SITUATION IN EL SALVADOR

### ISSUE

The state of human rights in El Salvador remains a matter of serious concern to the Canadian government. During the 46th session of the United Nations General Assembly (UNGA), a resolution on this subject was again adopted by the Third Committee. While acknowledging and supporting advances in the peace process, including the signing of the San Jose Agreement on human rights and the establishment of the United Nations Observer Mission in El Salvador (ONUSAL), the resolution calls for continued consideration of the human rights situation at UNGA 47.

The UN Commission on Human Rights' Special Representative for El Salvador, Professor Pastor Ridruejo, presented his report in September 1991. The report again underscores the essential link between the Salvadoran civil conflict and human rights violations. While acknowledging President Cristiani's determination to improve the human rights situation, the report reaffirms the persistence of serious violations, perpetrated by extremists on both sides of the conflict. The report recommends that the Government of El Salvador and insurgents (FMLN) redouble their efforts to reach a negotiated settlement, while striving to create an atmosphere of security and social justice necessary to the conclusion of the peace process.

### BACKGROUND

The trial of nine members of the El Salvador Armed Forces for the murder of six Jesuit priests, their cook and her daughter in November 1989 resulted in the conviction of Colonel Benavides, the highest ranking officer ever to be brought to trial for human rights abuses, and a second officer. While deeply concerned about the persistence of the civil conflict and attendant human rights violations, and while acknowledging that there still may be unanswered questions surrounding the murder of the Jesuit fathers, the Government of Canada believes that this trial and convictions represent significant progress.

In November, the Salvadoran Legislative Assembly ratified the final elements of constitutional reforms that were contained in the Mexico Accords of April 1991; these were already approved by the previous Assembly. Significant among the reforms adopted are provisions for the creation of the office of Human Rights Ombudsman, the establishment of a "Truth Commission", and measures to increase the independence of the judiciary. The implementation of these measures, and the presence of ONUSAL, should assist in improving the human rights situation in El Salvador.

CANADIAN POSITION

At this year's UNGA, the Canadian government's concerns about the human rights situation in El Salvador were again raised in the statement to the Third Committee under Item 98C. At the 47th session of the UNCHR, Canada supported the continuation of the mandate of the Special Representative for El Salvador.

## HUMAN RIGHTS SITUATION IN GUATEMALA

### ISSUE

A volatile combination of poverty, resistance to change of conservative social elements, endemic violence and insurgency is at the root of continued human rights violations in Guatemala. The Government of Canada is concerned at the Government of Guatemala's apparent inability to check human rights abuses.

The Independent Expert for the UN Commission on Human Rights, Dr. Christian Tomuschat, visited Guatemala twice in 1991. His first visit, in February, was at the invitation of the newly elected government of President Serrano. Dr. Tomuschat subsequently prepared a supplementary report covering the period December 1990 to February 1991. National elections were held during this period, leading to the first succession of civilian presidents in Guatemalan history.

While welcoming this peaceful transition, and noting with satisfaction the government's stated intention to make "human rights a central element of its overall political strategy for the coming five years", Dr. Tomuschat wrote critically of the overall human rights situation in Guatemala. At its 47th session, the UNCHR extended the Independent Expert's mandate. Dr. Tomuschat returned to Guatemala in October 1991. His report on this latest visit will be submitted at the 48th session of the CHR.

### BACKGROUND

Over the last several years, a difficult process to establish civilian authority has been underway in Guatemala. President Serrano has committed his government to improving respect for human rights. While serious human rights violations continue to take place, the re-establishment of civilian rule in 1985 saw an end to systematic abuses by the government.

Since President Serrano's inauguration, important steps have been taken to improve the human rights situation. These include the arrest of members of the military, and the conviction of policemen for human rights violations. As well, there has been some progress in providing more "space" for political expression and dissent. A commission to investigate the "disappeared" has been established, along with a Presidential Commission on Human Rights. The Human Rights Procurator has been outspoken and resolute in calling for the promotion of a civil society, criticising the security forces and the government when he has deemed it necessary.

Nonetheless, death squads have increased their activities, seemingly with impunity. Groups apparently linked to the security forces continue to kill and kidnap critics and suspected sympathisers of the insurgents (URNG). The judicial

system is in desperate need of reform. Human rights and trade union activists work at extreme peril, and the media continues to practice self-censorship.

CANADIAN POSITION

At this year's United Nations General Assembly, the Canadian government's concerns about the human rights situation in Guatemala again formed part of our statement under Item 98C to the Third Committee. At the 47th session of the UNCHR, Canada supported efforts to have Guatemala moved from Item 21 (Advisory Services) to Item 12 (Violations of Human Rights in All Parts of the World). We will give full consideration to support for a similar effort at UNCHR 48.

## HUMAN RIGHTS SITUATION IN PERU

## ISSUE:

After one year in power, the Fujimori government has achieved measured success in reintegrating Peru into the world financial system with consequent economic improvements and better prospects for the future. While this is expected to have a positive effect on the human rights situation in the medium and longer term, serious abuses continue as a result of the government's struggle against terrorist organizations.

## BACKGROUND:

Human rights abuses in Peru are perpetrated primarily by three groups: (1) Sendero Luminoso (SL), (2) Movimiento Revolucionario Tupac Amaru (MRTA), and (3) the military forces in their effort to counter the insurgency. Since 1980, more than 20,000 people have died because of political violence. Between August 1990, and September 1991, despite the genuine goodwill of the President, 2503 deaths due to political violence and 385 cases of disappearance were reported. A reduction in the number of reported disappearances has been noted in recent weeks, especially since the announcement in September of the government's new human rights policy but the numbers are still very high.

At the present time, more than 55% of the population and 40% of Peruvian territory are included in "emergency zones" which are under direct military control, devoid of civil liberties, including habeas corpus. The indigenous population are caught between the terrorists and frequently undisciplined military forces without recourse to any form of relief. Extra-judicial executions, torture, beatings, and rape are common. Government officials, political figures, human rights activists, campesino leaders, members of the clergy, and - recently - foreign aid workers have been targets for abuse and death. Since terrorists often masquerade as military personnel and military patrols have been known to cover their actions to make them appear to have been perpetrated by the SL, it is often difficult to determine responsibility for the violence. The insurgency is largely financed by "taxes" levied against narcotraffickers in the vast areas under terrorist control. The drug trade, although not responsible for extensive direct violence to date, adds another destabilizing factor to the already tenuous situation.

Upon his inauguration as President of Peru in July, 1990, Alberto Fujimori undertook to fight terrorism and the resultant human rights abuses through improved economic activity, a stabilized agricultural sector and agricultural alternatives to

- 2 -

the coca crop. Economic benefits have not yet filtered down to the general population and viable alternatives to the coca crop have not yet been introduced, but some obvious improvement has been achieved in promoting human rights. The government has introduced institutional changes in the judicial system, human rights education for both police and military personnel, greater cooperation with international human rights groups, and prosecution of officials accused of perpetrating human rights abuses. A more receptive attitude on the part of the military toward human rights and the apparent willingness of security forces to prosecute members charged with human rights violations has been noted in recent weeks.

Despite the government's efforts, the level of terrorist violence continues to escalate with both SL and MRTA capable of striking without warning virtually anywhere in the country, including metropolitan Lima - even humanitarian groups are no longer immune from attack. The long awaited and desperately needed anti-subversive policy continues to be as elusive as ever.

Human rights organizations are very active in Peru, with Amnesty International, Americas Watch, and various church organizations documenting numerous cases of abuse. Delegations from the Interamerican Commission on Human Rights, the European Commission for Justice and Peace, and the World Council of Churches have all visited Peru during October-November 1991. It is encouraging to note that government officials and senior military officers have cooperated fully to facilitate the work of these groups.

#### CANADIAN POSITION:

Canada deplores human rights violations wherever they occur in the world and Peru is no exception. The Canadian Government, through visits of senior officials and its Embassy in Lima, maintains close contact with both human rights organizations and the democratically elected Government of Peru, making its concerns over human rights violations known at all appropriate occasions. Canada supports the economic initiatives of the Fujimori administration and condemns all terrorist activity. Recent achievements are encouraging, but we look forward to further improvements in the administration of the judicial system and an end to impunity for all human rights violators.

Canadian representatives will continue to be actively engaged at the United Nations, in the United Nations Commission on Human Rights, through organs of the OAS, and bilaterally with the Government of Peru to ensure that the situation continues to improve.



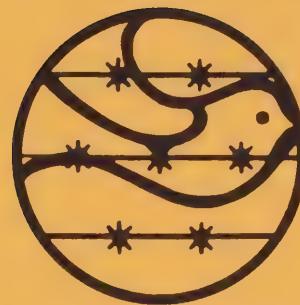




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Publications

# **Critiques of the Department of External Affairs' Country Profiles**



**Prepared by the Inter-Church Committee  
on Human Rights in Latin America (ICCHRLA)**

**February 1993**

## **The Inter-Church Committee on Human Rights in Latin America**

The Inter-Church Committee on Human Rights in Latin America (ICCHRLA) is one of a number of coalitions through which the major Christian churches in Canada work together on national and international issues of social justice. In doing so they are attempting to be faithful to the Gospel's call to work with the oppressed in their efforts to achieve basic rights and human dignity.

ICCHRLA maintains close relations with churches, human rights bodies and other representative groupings in those Latin American countries given priority by member churches on the basis of human rights concerns and Canadian Church relationships. Through regular on-site visits and the careful monitoring of reports and documentation, the committee continually assesses the human rights situation in these countries. It responds to requests for action in crisis situations, but attempts also to work on the underlying causes of human rights violations. The Committee shares its information, analysis and policy recommendations with its own church constituencies, with the Canadian government and the public at large, and with appropriate international human rights bodies.

**ICCHRLA is formed and supported by the:**

**Anglican Church of Canada**

**Canadian Council of Churches**

**Council of Christian Reformed Churches in Canada**

**Evangelical Lutheran Church in Canada**

**Presbyterian Church in Canada**

**Religious Society of Friends (Quakers)**

**Roman Catholic Church in Canada**

- **Canadian Conference of Catholic Bishops**
- **Canadian Catholic Organization for Development and Peace**
- **Canadian Jesuits (Upper Canada Province)**
- **Canadian Religious Conference - Ontario**
- **Congregation de Notre Dame**
- **Oblates of Mary Immaculate (Oblate Conference of Canada)**
- **Scarboro Foreign Mission Society**
- **School Sisters of Notre Dame**
- **Sisters of St. Joseph (Hamilton)**
- **Sisters of St. Joseph (Toronto)**
- **Ursulines of the Chatham Union**

**United Church of Canada**

**The Latin American Working Group of Toronto and the Comite chretien pour les droits humains en Amerique latine of Montreal maintain a consultative relationship with the ICCHRLA.**

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### **Appendix:**

**Department of External Affairs briefing notes on country situation**





## I. Introduction

For the past thirteen years, the Inter-Church Committee on Human Rights in Latin America (ICCHRLA) has participated with other Canadian NGOs in annual consultations held by the Department of External Affairs (DEA) immediately prior to the UN Commission on Human Rights in Geneva (UNCHR). These meetings, held every January, have provided one venue through which NGOs can make presentations and raise their concerns directly with senior officials from the DEA and with the Canadian ambassador to the UNCHR.

The annual consultations, while not without their frustrations, have nonetheless provided important opportunities to press the Canadian government on a number of policy initiatives. The UNCHR provides an important occasion for action, an occasion where, as a member of the UNCHR, the Canadian government position is publicly stated and promoted.

Each year since 1979, ICCHRLA has prepared comprehensive briefs or "annual reports" on those countries in Central and South America which have been prioritized by its member churches. These reports are presented to the Canadian government officials during the annual consultations. They are then submitted to other member countries of the UNCHR and relevant U.N. bodies.

Since 1986, External Affairs has prepared a briefing book for the consultations in which it provides short assessments of the human rights situation in a number of countries, several of which appear on the UNCHR agenda. Over the years, those briefs have sharpened from focusing largely on aid and trade relations to providing a stronger human rights framework. In January, 1993 External Affairs produced brief assessments of six countries in the Americas, four of which ICCHRLA has produced reports on. (The four countries are Peru, Colombia, Guatemala and El Salvador.) Briefs on countries in the Middle East, Africa, Asia, and Europe were also prepared by the Department.

For the second year, ICCHRLA has taken the opportunity to critique these briefs. ICCHRLA has based its critiques on the findings of its 1992 annual reports. The committee offers these critiques with the intention of challenging the Canadian government on a variety of human rights issues. It is also hoped that they will encourage External Affairs to produce more comprehensive country briefs in the future. Finally, they are offered as a way of furthering the dialogue between ICCHRLA and the Canadian government.

## II. General Concerns

In the course of developing the critiques, ICCHRLA identified issues that were common to a number of briefs. Below are ICCHRLA's concerns about these common issues.

### **Stated Intentions vs. Reality**

As occurred in the 1991 DEA reports, too much credit is given for what are still for the most part only stated intentions of governments to improve human rights: in the Colombia report for example, it is stated that **“President Cesar Gaviria has strived to reduce violence and to improve the human rights situation”** and in the Guatemala report, **“President Serrano has committed his government to improving respect for human rights”**. While such administrative measures as the establishment of governmental human rights commissions and the appointment of human rights ombudsmen have occurred in a number of countries, there is little concrete evidence to date to suggest that they have effectively improved the human rights situation in their respective countries.

Many Latin American countries are signatories to international human rights conventions and all have constitutions and laws protecting the rights of their citizens, yet gross and systematic abuses continue to occur. Canada should therefore base its assessment on the actual human rights situation in a country, rather than on stated intentions, calling on governments to respect the laws and conventions to which they are signatories.

### **Accountability of Civilian Governments**

ICCHRLA is concerned at the apparent unwillingness on the part of the Canadian government to hold elected governments accountable for continuing gross and systematic human rights abuses. In most Latin American countries, the president, as Commander in Chief of the Armed Forces, possesses administrative mechanisms to remove from active duty those military personnel involved in human rights abuses. Instead they often act as apologists for and defenders of known rights abusers. In the case of El Salvador for example, President Cristiani has refused to remove his Minister and Vice Minister of Defense, in spite of their being named in the report of the Ad Hoc Commission, established to purge the Salvadoran Armed Forces of human rights violators. Civilian governments and their leaders must therefore be held responsible for controlling violations perpetrated by their military and security forces.

Statements made in 1992 by the presidents of Peru and Guatemala, also raise serious concerns about their “stated intentions”. Both men have denounced non-governmental human rights defenders in their countries. The Canadian government should strongly condemn such acts and work at establishing stronger contacts with non-governmental human rights organizations, as a way of obtaining alternative views not offered by governmental human rights commissions and providing protection to these organizations.

### **Repression Through “Legal” Means**

The Canadian government is quick to point to a reduction in the numbers of such violations as extrajudicial executions and disappearances as a sign that the overall situation of human rights in a given country is improving. ICCHRLA would argue that in many cases, the violators are simply adopting new methods

of repression and control. In Guatemala, for example, the legal system is now being used by the government and military to render ineffective the non-governmental human rights community. In Peru, the work of human rights organizations has been seriously undermined by decree law 25474, known as the anti-terrorist law, imposed by the de facto government of President Fujimori on May 6, 1992.

### **The Wall of Impunity**

In addressing the issue of impunity, the External Affairs reports focus on those extremely rare cases in which arrests and/or convictions have occurred: “**some prosecutions have been pursued with a few individuals in the army and the police being found guilty**” (Colombia); “**some members of the military and police have been arrested, and sometimes convicted for human rights violations**” (Guatemala). Not stated is that international pressure, rather than political will has often been the driving force behind such initiatives.

No mention is made of the fact that the majority of those tried are low ranking members of the military, nor of the fact that the cases are normally tried in military rather than civilian courts. Finally, the nature of the sanctions is not mentioned, nor the ways in which justice is impeded through threats to witnesses, lawyers, etc. It is clear that these rare cases have not destroyed the wall of impunity constructed around the military and security forces in any of the countries examined by External Affairs.

### **The Case for Analysis and Accuracy**

As with the 1991 DEA reports, those presented this year often fail to adequately address key issues or events in a given country. This lack of more comprehensive analysis leaves one with a vague, even inaccurate, impression of the human rights situation in a given country. Sweeping generalizations are made, such as that found in the Guatemala report: “**a combination of poverty and ignorance among the majority of Guatemala's population and resistance to change among conservative social elements has created in Guatemala an excessively stratified society, resistant to change.**” Such statements not only inaccurately identify the sources of violence in Guatemala, but also give the false impression that *all* of Guatemalan society is resistant to change, when in fact the poor majority is *for* change. It is essential that the sources of violence and violations be accurately identified and denounced.

Further, the DEA reports contain a number of factual errors; in the case of the Peru report there are several translation errors. This raises concerns for ICCHRLA about the care that is taken in preparing the reports and the importance the DEA places on them. Given that they are public documents, shared widely in Canada and abroad, ICCHRLA would suggest that they be prepared with greater care and attention to accuracy.

### **Institutional Memory of the Department of External Affairs**

In some cases, the 1992 reports repeat verbatim sections of the 1991 reports. ICCHRLA is concerned at this phenomenon as it indicates that ICCHRLA's objective to further the dialogue between itself and the Canadian government has not been met. There are two possible reasons for this: the first is that basic disagreements exist in the analysis between the Canadian churches and government in the assessment of the human rights situation in Latin American countries. If such is the case, it would be useful if the DEA could identify those areas of disagreement in order that the dialogue be advanced.

The second possible reason is the lack of "institutional memory" at the desk officer level in the DEA. Between 1982 and 1992, ICCHRLA counted a total of 32 desk officers who were assigned to the four countries addressed in this set of critiques. While the DEA has identified positive reasons for such changeover, it has had a negative impact on the ability of Canadian non-governmental organizations to develop the kinds of relations with DEA staff that would move the dialogue forward. This has also had a negative effect on Canadian foreign policy development in Latin America, we would argue.

Attached are ICCHRLA's four critiques and the reports of the Department of External Affairs on Colombia, Peru, Guatemala and El Salvador. ICCHRLA would welcome the opportunity to discuss its general and country specific concerns with External Affairs.

### III. Critique of the Department of External Affairs' Report on the "Human Rights Situation in Colombia" (December 1992)

In its introduction, the External Affairs report claims that Colombia "has been a focus of international attention due to the nature and extent of its human rights problems". As ICCHRLA noted in its critique of the DEA's 1991 report on Colombia, it is true that year after year, a consistent pattern of human rights abuses in Colombia has been signalled by many international organizations including Amnesty International and the U.N. Working Group on Enforced or Involuntary Disappearances (WGEID), the Special Rapporteur on Torture and Special Rapporteur on Summary or Arbitrary Executions. In spite of this, there has been silence on the part of the international community, including the Canadian government, towards human rights violations in Colombia. Attention tends to focus on one aspect: the violence engendered by drug trafficking. While drug cartels are responsible for a great deal of violence in Colombia, they are not the main actor responsible for political violence.

Once again, the 1992 report asserts that "**Despite its well established democratic political system, Colombia has experienced a great deal of internal violence in recent years**". While it is true that, prior to the adoption of a new Constitution in 1991, Colombia had one of the oldest Constitutions in the Americas, it should not be forgotten that Colombians lived under a continuous state of siege for most of the past 42 years. The exercise of presidential decrees and authoritarian government made elected representatives almost irrelevant. During 1992, a little more than one year after it lifted the state of siege, the Gaviria administration invoked the State of Internal Disturbance — a new state of exception with many of the same characteristics as the former state of siege. Colombians lived under this state of exception for the last six months of 1992.

The DEA report states that "**In the first half of 1992, human rights organizations recorded 19 cases of torture, 89 kidnappings and 33 disappearances**". The report fails to provide the source of these figures. Many Colombian human rights organizations use the figures provided by the data bank operated by CINEP (Centro de Investigación y Educación Popular). According to CINEP's figures for the same six months of 1992, there were 66 documented cases of torture, 141 kidnappings and 86 disappearances. ICCHRLA raises this point not to join a numbers game (there is no acceptable level of abuse) but to point out the need for DEA to document its sources and to ensure their accuracy.

As in last year's report, the DEA states that: "**The major actors in the violence and killing in Colombia are the guerrillas, the military, paramilitary and self defense groups and criminal organizations involved in the drug trade.**" The order is misleading and the DEA does not clarify the nature and quantity of abuses committed by groups listed. The list may give the impression that the guerrillas are responsible for most of the violence. While it is not an easy task to identify those responsible in every case, methods used and identity of the victims indicate that the paramilitary groups and members of the security forces are responsible for the majority of deaths.

The report states that "**Cooperation between guerrillas and drug traffickers is on the increase**" but does not substantiate this claim; nor does it state which guerrillas and which drug traffickers may be involved, or in which regions of Colombia this phenomenon occurs. The report then states that "**Civilians are victims of intimidation, extortion and disappearances**" and that "**Torture is sometimes used to extract information**". The report does not say who is responsible for these abuses. Given the preceding sentence, a reader may mistakenly conclude that all these abuses are the work of an alliance between guerrillas and drug traffickers. The reference to torture as "**sometimes used**" understates what is recognized as a pervasive practice in Colombia.

The assertion that “**Some prosecutions have been pursued with a few individuals in the army and the police being found guilty**” understates the pervasive nature of the impunity enjoyed by state agents responsible for human rights violations. In its report to the U.N. Commission on Human Rights in February 1992, the Working Group on Enforced or Involuntary Disappearances said that the armed forces have not been reformed by the new constitution; in addition, the constitution permits soldiers who commit a crime to argue that they were following orders.

The DEA report states that since his election in 1990, “**President César Gaviria has strived to reduce violence and to improve the human rights situation**,” but there is no evaluation here of President Gaviria’s success or failure. The report goes on to state that “**A new and very liberal constitution was approved in 1991**,” but the people of Colombia spent much of 1992 living under a state of internal disturbance similar to the state of siege authorized by the previous constitution.

The report asserts that “**Several guerrilla groups were persuaded to abandon their arms in favour of normal political life**”. It is true that the political system, previously under the tight control of the two traditional parties, has opened up somewhat in the past two years with the demobilization and incorporation into political life of several insurgent groups. Despite this opening, members of opposition political parties continue to face systematic persecution. The most notable example is the Patriotic Union which has had approximately 2,000 of its members assassinated since the party was formed in 1985. The political parties which were born in 1991-92 from newly-demobilized guerrilla organizations, have also been hit by political assassinations. Already, close to 200 of these former guerrillas have been assassinated.

The same paragraph describes the activities of several agencies or departments of the Colombian government which are responsible for the administration of justice and defense of human rights. Unfortunately, information presented here is incorrect in several instances. The **Fiscalía General** has a role quite similar to that of the Attorney General in Canada (who in our system is also the Minister of Justice); the Fiscalía is responsible for prosecutions, and at the local level, a Fiscal functions much as a Crown prosecutor would in Canada. The **Procuraduría** is not the attorney general’s office; it is an agency responsible for investigation of crimes and abuses in the public sector, including the armed forces when civilians are also involved, but it has no powers to prosecute cases. Nowhere in this paragraph nor elsewhere in the DEA report is there any evaluation of the effectiveness of these, or other, departments and agencies. While “**limitations were placed on the Government’s ability to invoke state of emergency legislation**” and “**the current measures are being reviewed by Congress**,” the state of internal disturbance continues. The final statement in this paragraph states that “**A national security strategy on violence was developed and a civilian Minister of Defense was appointed**,” but again there is no evaluation of these steps.

The DEA report asserts that two main guerrilla groups “**rejected the olive branch extended by the Government**.” ICCHRLA’s assessment of the breakdown of peace talks leads it to conclude that both parties bear responsibility for the breakdown. On Sept. 30, when the head of the Colombian Presidential Peace Commission resigned, he said he was stepping down because it was impossible to find a peaceful solution in Colombia. He said there was a lack of seriousness on the part of the guerrillas to reach an agreement and a “war-like stance within the government which has not been dealt with.”

The DEA report states that the government’s response to the breakdown of the peace process was to introduce the 90-day state of emergency on Nov. 8. It adds: “**Spending on defense and public order is set to double in 1993**.” There is no DEA analysis of the renewed use of states of emergency by the Colombian government, nor of what increased defense and public order spending will mean in a country where most human rights violations are committed by the military and paramilitary groups.

The paragraph in the DEA report concerning Colombia's indigenous peoples misrepresents the conclusions of the Assembly of First Nations delegation. The objective of the mission was to assess the human rights situation in Colombia, especially as it affects Colombia's indigenous peoples, and to assess the potential impact of the so-called Pacific Plan, a mega-project to build roads, seaports, military bases, tourism facilities, pipelines and mines in the department of Chocó. In its report, the AFN raised concerns over a reported increase in politically motivated killings and disappearances. The authors of these attacks were, for the most part, military officials, police, security agents or paramilitary squads. With respect to the Pacific Plan, the AFN delegation was informed that the plan had been developed without consultation with the representative organizations of the indigenous peoples who would be directly affected.

ICCHRLA is surprised by the reference in the Canadian DEA brief to the participation of a Colombian in the human rights course offered by the Canadian Human Rights Foundation. It seems inappropriate, in a paragraph on the Canadian government's position, to discuss a representative from a Colombian non-governmental organization who attended an event organized by a Canadian non-governmental organization.

As in the previous year, the DEA states in the section on the Canadian position, that "**Canada deplores violations of human rights in Colombia**". The report gives no indication of any specific actions Canada has taken in 1992 to make that stance known to Colombian authorities or the international community; it would be useful to know when and how often the Canadian government "**draws Canadian concerns and special cases to the attention of the Colombian government**". Nor does the report indicate any specific action Canada is prepared to undertake at the upcoming session of the United Nations Commission on Human Rights. In view of the pattern of systematic human rights abuses in Colombia, ICCHRLA strongly urges the Canadian government to raise the issue of Colombia under item 12 of the UNCHR agenda and work towards the appointment of a Special Rapporteur.

Whether or not there is "**widespread sympathy in the international community for the difficult circumstances confronting the Colombian Government**," Colombia should not escape the scrutiny of the international community. Consideration under item 12 and appointment of a Special Rapporteur need not be seen as punishment, but rather as an opportunity to assist Colombia in the fulfilment of its own law and its international obligations.

#### IV. Critique of the Department of External Affairs' Report on the "Human Rights Situation in Guatemala" (December, 1992)

A review of the Department of External Affairs report on the human rights situation in Guatemala raises several issues of concern for the Inter-Church Committee on Human Rights in Latin America (ICCHRLA). In addressing the "issue" of human rights violations in Guatemala, the 1991 report issued by External Affairs highlighted "**a volatile combination of poverty, resistance to change of conservative social elements, endemic violence and insurgency**". External Affairs 1992 report addressed the "issue" in this way: "**a combination of poverty and ignorance among the majority of Guatemala's population and resistance to change among conservative social elements has created in Guatemala an excessively stratified society, resistant to change.**"

Given that External Affairs' understanding of the issue has remained unchanged, ICCHRLA's position is, as it was a year ago: "*while each is a contributing factor, this statement fails to acknowledge that the predominant source of human rights violations lies with the military and security forces responding to the struggles for justice of Guatemalan civil society. It also fails to differentiate between the violence of common crime resulting from poverty and violence of the structures and institutions of oppression.*" Further, the use the term "ignorance" negates the efforts of those of "the poor majority of Guatemala's population" who are in fact for change.

This year's "issue" also states that "**violence, armed confrontation and human rights abuses continue at unacceptable levels.**" ICCHRLA questions the use of such terms as "unacceptable levels" that imply there are "acceptable levels" of violence and violations.

In the "background" section, the report asserts that "**respect for human rights began to improve**" with the election of President Cerezo's civilian government in 1986. While violations did decrease in the first years of President Cerezo's mandate, by the end of his term violations had increased to levels comparable to those of the military government that preceded him. Further, ICCHRLA would question whether in fact the administrations of President Cerezo or his successor, President Serrano, are in fact "civilian governments", given the evident majority quota of power the military has maintained since 1986.

Although "**President Serrano has committed his government to improving respect for human rights**", his actions have often contradicted his commitments. In 1992, his verbal attacks on the press, trade union, student, indigenous and other sectors of civil society were, in many cases followed by physical attacks by the army, security forces or civil defense patrols (PACs). While "**some members of the military and police have been arrested, and sometimes convicted for human rights violations**" they have consistently been low ranking members. High ranking officers are, on the other hand, consistently acquitted and the impunity of the military remains unchallenged. Furthermore, the work of the Human Rights Ombudsman should not be equated with greater commitment or political will on the part of President Serrano to improve human rights. Ramiro de Leon Carpio's confirmation for a second term as Human Rights Ombudsman was opposed by the president. In his 1992 year-end report to the Guatemalan Congress, the Ombudsman stated that President Serrano contradicted his discourse through actions indicating his "being part of the violators" of human rights.

ICCHRLA would concur with the report in its assessment that "**violence of all kinds continues at high levels and some is directed at children and at anyone who attempts to protect or defend victims of violence.**" The report however, offers no analysis of the sources of that violence. Nor does it identify the perpetrators of the violence; this in spite of the Ombudsman naming the security forces as being responsible for the largest number of extrajudicial deaths that occurred in 1992.

The report states that the “**peace talks between the Government and the insurgent guerrilla group URN [sic] ... are stalled.**” Again, the report offers no analysis of the talks, nor does it mention that they are stalled on the agenda item of human rights. While the agreement signed between the Permanent Commissions (CCPP) of the Guatemalan refugees and the Guatemalan government is a positive development, attempts by the Serrano administration to re-negotiate parts of the agreement and military infiltration of the governmental refugee serving agency (CEAR) pose serious concerns for the security of the returning refugees. Finally, Rigoberta Menchu’s Nobel Peace Prize nomination was actively opposed by the Guatemalan government and military. Since Menchu won the prize, those in the popular movement and the media who supported her candidacy, have come under increasing attack.

The “Canadian position” reiterates that the Guatemalan “**government is committed in principle to improving the human rights situation.**” This statement is qualified by adding that reform has not been adequately pursued, and that the Canadian government will consider Guatemala under UNCHR agenda item 12 this year. The “position” like the report, is therefore ambiguous and contradictory, arguing implicitly that Guatemala should remain under UNCHR agenda item 21, while concluding that the Canadian government will pursue item 12.

It is ICCHRLA’s position that the Canadian government needs to do more to place Guatemala under increased international scrutiny, by actively promoting and bringing to a vote, a resolution under item 12 at UNCHR 49.

## V. Critique of the Department of External Affairs' report on the "Human Rights Situation in El Salvador" (December 1992)

The Inter-Church Committee on Human Rights in Latin America concurs with the Department of External Affairs' report that "**the peace accords signed on January 16, 1992 by the Government of El Salvador and the armed opposition Farabundo Marti National Liberation Front (FMLN) ended a terrible twelve year civil war.**" But while the ceasefire has led to a decrease in the level of war-related violence, the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL) recorded an increase in the numbers of extrajudicial executions, death threats and enforced and involuntary disappearances during the first five months after the ceasefire as compared to the last five months of the war.

The Canadian government's concern about "**continuing incidents of human rights violations**" in El Salvador is therefore well-founded. The report of UN Independent Expert Pedro Nikken, summarized in the External Affairs report, further raises the concern that "**the resources available to the civil society to combat these violations [are] inadequate.**"

ICCHRLA partners in El Salvador have been critical of the role played by ONUSAL, in which promotion of human rights has been seen by ONUSAL officials to contradict oversight of the implementation of the accords, often to the detriment of the former. They have however also expressed concern that precisely because of the weakness of new Salvadoran institutions - the Human Rights Ombudsman, the National Civil Police and a reformed judiciary - the premature departure of ONUSAL could have a detrimental effect on the human rights situation of the country.

In the "background" section of the report, External Affairs identifies a number of the causes of the civil war that continue to exist; among them, "**a penchant for the violent resolution of disputes**". ICCHRLA would strongly question the assertion that Salvadoran society is more inclined toward violence than any other society. More specifically, it does not identify what sector within Salvadoran society exercises this penchant. ICCHRLA would assert that the majority of Salvadorans, particularly those who were actively involved in promoting a negotiated peace *do not* possess such a penchant.

ICCHRLA agrees that "**long term commitment by the international community is necessary to ensure that the political, military, legal and social reforms agreed to in the peace accords are carried out.**" But as ICCHRLA's 1992 "Report on the Human Rights Situation in El Salvador" indicates, the "**several serious disputes [that] arose between the Salvadoran government and the FMLN**" were far more serious than simply being "**about the interpretation and implementation of the peace accords**". Throughout 1992, the Salvadoran government demonstrated a serious lack of political will to comply with the spirit and letter of the accords. For example, the dissolution of the National Guard and the Treasury Police was plagued by governmental efforts to maintain their existence through legislation, the transfer of members into the army and National Police, and even a blatant attempt at simply renaming them Border Guard and Military Police respectively, all in violation of the Peace Accords.

Even more worrisome, is the unwillingness of President Cristiani to carry out the recommendations of the Ad Hoc Commission with respect to the purging of the officer corps of the Armed Forces. In January 1993, the Salvadoran government announced that the purging process would remain confidential and would take place gradually over the remainder of President Cristiani's mandate (March 1994). Through such actions, the structures that have perpetuated gross and systematic violations of human rights and the notorious "wall of impunity" are maintained.

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In addition to the purging of the Armed Forces and the release of the report of the Truth Commission, several key provisions of the accords have yet to be fully implemented: land distribution, reform of the judiciary, formation and functioning of the National Civil Police, reduction in the size of the Armed Forces and the implementation of economic reforms that will effectively address the needs of El Salvador's poor majority.

By highlighting the continuing need for international attention due to the disturbing level of violations, and the fragility of new institutions to protect human rights, the ICCHRLA report implicitly argues for a continuation of El Salvador under UNCHR item 12. The "Canadian position" however, does not support the report's argument and gives no indication under what agenda item the government of Canada will pursue consideration of El Salvador at UNCHR 49.

It is ICCHRLA's position that Canada work toward the formulation of a strong resolution on El Salvador expressing concern for the lack of full compliance with the spirit and letter of the Peace Accords and denouncing the ongoing pattern of human rights violations and impunity; and that Canada support a continuation of the mandate of the UNCHR Special Expert Pedro Nikken, under UNCHR item 12.

## VI. Critique of the Department of External Affairs' Report on the "Human Rights Situation in Peru" (December 1992)

*Note: Regrettably there were several errors in the official English translation from the original French of the DEA's report. This resulted, in some areas, in statements which in English appear almost flippant. For example, a more accurate translation of the first sentence would read "Respect for human rights was extremely precarious in Peru during 1992." Similarly, President Fujimori's self-inflicted coup d'état should not have been described in English as the "highlight", but rather as "the key event."*

The Department of External Affairs begins its report on the human rights situation in Peru by pointing out, quite correctly, that the respect for human rights is very precarious; however, the report as a whole tends to underestimate just how serious the situation actually is. As well, its treatment of several important areas of concern is equivocal. Moreover, several important aspects of the human rights situation are totally omitted.

In making its initial statement on the issue of human rights in Peru, the report affirms that violence, attacks on democratic institutions and civil rights, and widespread economic and ethnic discrimination are all important concerns. The report then goes on to say: "**However, one must consider the country's widespread climate of violence before attempting to determine what the future of human rights will be in Peru.**" While this statement is open to interpretation, it seems to imply that the situation of violence may in some way justify human rights abuses. This contradicts and thus weakens the statement appearing later in the report which indicates "**that violence and terrorism can be eliminated within the bounds of democratic rules and institutions.**"

The report once again is correct in affirming that the self-inflicted coup d'état of the formerly-constitutional President Fujimori was a key event of 1992 in Peru. By stating that civil liberties were suspended for 10 days, however, the report falsely gives the impression that they were restored after that time frame. In fact, the entire Constitution, including all guarantees of civil rights, remains suspended; only the generalised State of Emergency was lifted (and that in only certain regions of the country). Moreover, since the coup on April 5, Fujimori has issued a host of decrees which effectively eliminate many important civil rights. The new anti-terrorist law (decree 25475) declared on May 6 severely restricts the right to legal defence and due process for those accused of security-related crimes. Changes to the labour code abolish any effective means for workers to defend their interests or improve their economic situation.

The lack of an independent judiciary has also resulted in a restriction on the freedom of the press. Enrique Zileri, director of the well-known magazine *Caretas* was recently fined about \$8000 because his publication had denounced corruption in Fujimori's *de facto* government. This action and others like it have created a climate of fear which encourages self-censorship of the press.

The External Affairs Report dedicates an entire paragraph to Fujimori's justifications for his self-coup. By doing so, without any accompanying rebuttal or disclaimer, it seems to give tacit approval to Fujimori's motivations. Once again, this undermines the report's subsequent statements urging a return to democracy in Peru.

The report notes that the election of a constituent assembly on November 22 marks the first step towards a return to democracy. It goes on to say that the election followed "**acceptable standards**". Both of these statements, however, are questionable.

On a basic level, one must question whether the election of a constituent assembly was an appropriate way to begin the restoration of democracy in Peru. By definition, such an assembly is convoked to rewrite or revise the country's constitution. Yet, the constitutional order *per se* was not a problem in Peru prior to Fujimori's coup (albeit the implementation of that order obviously suffered from serious defects). To some extent, by legitimising the need for a constituent assembly, Fujimori's overthrow of the constitutional order appears justified. This is unfortunate. Ideally, a restoration of the constitutional order as it existed prior to April 5 would have been the most appropriate and direct way to restore democracy in Peru.

Even if one accepts the possible practical advantages of electing a constituent assembly, however, it is necessary to question the validity of the electoral process itself. With no clear constitutional guarantees of basic civil rights, truly free and democratic elections were impossible in Peru. In particular, the infringement of the freedom of the press made it difficult for citizens to have access to the objective information they needed to make informed choices. Many of the major political parties chose not to participate under the circumstances, and thus the options for the people were still further reduced. Fujimori manipulated the rules governing the elections in his own favour, in particular with respect to the regulations concerning political alliances. The government apparatus intervened in support of the pro-Fujimori political parties. Before the vote, Fujimori even stated that he would dissolve the constituent assembly if the opposition parties won a majority of the seats.

Despite Fujimori's massive manipulation of the process, the results were still less than favourable for him. Notwithstanding obligatory voting (non-voting citizens are fined), 28% of eligible voters chose not to participate in the process. Another 25% voted with blank or spoiled ballots. Both percentages are significantly higher than those for other elections in recent years, demonstrating significant disapproval of the entire process on the part of the population. Of the remaining votes, only slightly more than half went to the pro-Fujimori *Cambio 90 / Nueva Mayoría* alliance. Yet, this result enables Fujimori to effectively rewrite the constitution in his favour. It is not surprising, then, that Instituto de Defensa Legal in Lima notes that:

The tension in the country between authoritarianism and democracy, openly initiated with the coup of April 5, far from being resolved with the election of the constituent assembly, remains a fundamental problem. The tendency appears to be, in fact, the consolidation of a clear presidential authoritarianism. (Ideele, December 1992, p.12)

It is still not clear how much authority and autonomy the new constituent assembly will have, albeit several decrees of Fujimori have already limited its powers. Likewise, the new municipal governments elected on January 29 may have only limited autonomy. As long as Fujimori remains in control of the central state apparatus, including the police and military, democratic institutions can clearly be arbitrarily overruled.

The report rightly states that both the subversive movements and government forces "**continue to make a mockery of human rights in Peru.**" Indeed, this is so evident that it is even misleading to call the government forces "forces of law" (especially given the interruption of the legitimate constitutional order). Few details or examples of human rights violations, however, are given in the report. Yet, Sendero Luminoso remains one of the most destructive subversive movements in the world, even after the capture of their leader Abimael Guzmán (there has been no significant reduction in terrorist attacks in the past few months). Meanwhile, the military and police continue an anti-subversive strategy which uses summary executions, forced disappearances, torture, and sexual abuse as its basic tools. Since the time of the coup, there has been a significant increase in illegal and arbitrary detentions. Not only, then, is

the cycle of violence in Peru far from over as the External Affairs report indicates, it may in fact be accelerating. Certainly the recent changes to the anti-subversive laws mentioned previously demonstrates that Fujimori is willing to open the door to still greater abuses. Impunity remains the law of the day for government forces committing human rights violations. The capture of Abimael Guzmán and other subversive leaders may be a sign of hope, yet the danger of still more brutal violence is certainly a possibility.

As the report points out, Fujimori's avowed intentions to renounce the Interamerican Human Rights Convention is a source of serious concern. Only with continued, and indeed increased, international pressure will such a move be averted.

Several important areas of human rights violations have been omitted from the report. These include the erosion of the freedom of the press, the impunity of the military and security forces, the lack of legal protections since the coup, and the relationship between neo-liberal economic policies and human rights violations.

ICCHRLA once again welcomes and supports the initiatives that the Canadian government has taken to improve the human rights situation in Peru and facilitate the return to democracy. We support Canada's decision to not participate in bilateral government-to-government cooperation, not to authorize sales of military equipment, and to restrict trade relations. We urge the Canadian government to carefully evaluate any changes to these policies; there is still a long distance to go before authentic democracy is restored in Peru. Indeed, Canada must monitor the situation in Peru very carefully. Fujimori may well be consolidating his authoritarian project while creating democratic window-dressing to placate international opinion.

In addition to the actions it is already taking, ICCHRLA continues to urge the Canadian government to sponsor a resolution on Peru and to work toward the appointment of a Special Rapporteur.

Finally, in response to the serious violation of human rights resulting from Fujimori's neo-liberal economic programme, we urge the Canadian government to allocate additional funds for aid channelled through non-governmental organizations to Peru. As well, we encourage the government to work through international lending institutions to pressure for changes in Peru's current economic policies.

## **APPENDIX**

Department of External Affairs' country profiles are taken from, "Consultations in Preparation for the 49th Session of the U.N. Commission on Human Rights," January 13 - 14, 1993, prepared by the Department of External Affairs and International Trade.



## HUMAN RIGHTS SITUATION IN COLOMBIA

### ISSUE

Colombia has faced serious internal problems in recent years, including a war with drug traffickers and a persistent internal guerrilla conflict. It has been a focus of international attention due to the nature and extent of its human rights problems.

### BACKGROUND

Despite its well established democratic political system, Colombia has experienced a great deal of internal violence in recent years. In 1991, there were over 30,000 violent deaths. In the first half of 1992, human rights organizations recorded 19 cases of torture, 89 kidnappings and 33 disappearances. Three judges investigating links between drug cartels and the 1990 murder of a presidential candidate were all killed despite being given special protection. The extent of unemployment and rural poverty fuel the drug trade and the violence associated with it. The major actors in the violence and killing in Colombia are the guerrillas, the military, paramilitary and self defense groups and criminal organizations involved in the drug trade. Cooperation between guerrillas and drug traffickers is on the increase. Civilians are victims of intimidation, extortion and disappearances. Torture is sometimes used to extract information. Some prosecutions have been pursued with a few individuals in the army and the police being found guilty.

Since his election in 1990, President Cesar Gaviria has strived to reduce violence and to improve the human rights situation. A new and very liberal constitution was approved in 1991. Several guerrilla groups were persuaded to abandon their arms in favour of normal political life. The Fiscalia General was established to verify complaints and ensure that they are brought before the courts. The office of Defensor Del Pueblo (Peoples' Defender), a sort of human rights ombudsman, was created and human rights were further entrenched. It operates in conjunction with the Procuraduria (Attorney General) which has responsibility for the legal protection of human rights. Finally, limitations were placed on the Government's ability to invoke state of emergency legislation; the current measures are being reviewed by Congress. A position prohibiting extradition was adopted with regard to drug traffickers, encouraging many to submit to justice. A national security strategy on violence was developed and a civilian Minister of Defense was appointed.

Despite these reforms, the two main guerrilla groups (the Army of National Liberation and the Revolutionary Armed Forces of Colombia) rejected the olive branch extended by the Government. In June the Army of National Liberation (ELN) announced a "total war" against the government's economic policies and threatened to attack state institutions, multinational corporations and the media. Since then, the ELN fulfilled its threats by blowing up oil pipelines, ambushing and killing police and destroying installations at Medellin's airport. Other rebel groups have followed suit. In response, the Government declared that it would not participate in talks again unless they were clearly aimed at true

peace through the demobilization of the guerrillas. Pablo Escobar's escape from prison in July was embarrassing. The prison where he was detained turned out to be a well protected base from which to direct his drug running operations. The Minister of Justice and the Acting Chief of the Air Force were obliged to resign and President Gaviria's reputation was considerably weakened by a continuing Congressional investigation. The Government response to the violence was to introduce a 90 day state of emergency on November 8. Spending on defense and public order is set to double in 1993.

Colombia's indigenous peoples have been especially affected by conflicts over land ownership. A delegation from the Assembly of First Nations (AFN) visited Colombia in October to review the human rights situation and to assess the merits of continuing a major CIDA/CUSO project. The delegation strongly supported the project but indicated that it would like to see more denunciations by Canada of abuses in Colombia. However, the group acknowledged that the new constitution significantly enhances the rights of indigenous peoples - a view shared by Maurice Strong, the Secretary General of the UN Conference on Environment and Development. It provides for education that respects cultural identity and allows for the exercise of a significant degree of self government. The constitution contains many explicit and wide ranging provisions in respect to women's rights. Social spending will account for 28% of the 1993 budget.

### CANADIAN POSITION

Canada deplores violations of human rights in Colombia and supports the efforts of the Government to improve the human rights situation, including the reduction in general violence from whatever source. The Canadian Embassy in Bogota maintains close contacts with Colombian NGOs (e.g. the Inter American Legal Services Association, Comision Andina de Juristas, and human rights critic Alfred Vasquez Carrizosa) and with the Office of the Presidential Advisor for the Defense, Protection and Promotion of Human Rights. He visited Canada last March to meet with NGOs, media representatives and government officials. The Embassy periodically draws Canadian concerns and special cases to the attention of the Colombian authorities. In 1991 and 1992, a Colombian attended the human rights summer course offered under the aegis of the Canadian Human Rights Foundation. Canada recognizes the importance of an objective, secure judiciary in safeguarding human rights and has supported projects to improve the delivery of justice and to establish a network of human rights ombudsmen at the local level.

While recognizing that the situation is not ideal, Canada considers that its present approach to addressing the human rights concerns in Colombia represents the most effective means of positive influence. The widespread sympathy in the international community for the difficult circumstances confronting the Colombian Government was illustrated in the rejection, by this year's session of the Sub-Commission on the Protection of Minorities, of a proposed resolution on Colombia. Support for Colombia at CHR will inevitably be more pronounced.

December 1992

## HUMAN RIGHTS SITUATION IN GUATEMALA

### ISSUE

A combination of poverty and ignorance among the majority of Guatemala's population and resistance to change among conservative social elements has created in Guatemala an excessively stratified society, resistant to change. This situation is aggravated by the fact that the vast majority of the poor are members of indigenous groups while the wealthy tend to be of European origin. Violence, armed confrontation and human rights abuses continue at unacceptable levels.

### BACKGROUND

Guatemala's political history has been turbulent. It has been characterized by frequent coups, many of them bloody, and by an intense involvement of the security forces.

In the 1970's and early 1980's, Guatemala's human rights record was among the world's worst. Under military governments the security forces committed acts of terror and violence which left many thousands dead or missing and precipitated the flight, mostly to Mexico, of tens of thousands of people. (Some 45,000 of the latter still remain in Mexico). With the election of President Cerezo's civilian government in 1986, respect for human rights began to improve and a number of concrete measures were taken in this direction.

Over the past several years this difficult process has continued and President Serrano, elected in 1990, has committed his government to improving respect for human rights and further steps have been taken to effect this. Members of the military and police have been arrested, and sometimes convicted for human rights violations. A commission to investigate the situation of missing persons has been established as has a Presidential Commission on Human Rights. The Human Rights Ombudsman has been outspoken and resolute in calling for the strengthening of civilian rule. Furthermore local human rights groups have been able to operate at somewhat less peril and under less harassment than has been the case in the past.

Nevertheless the human rights situation remains very grave. While there may be, from one year to another, marginally fewer violent incidents of a given type, the overall situation, in practical terms, appears to have improved only very slightly. Violence of all kinds continues at high levels and some is directed at children and at anyone who attempts to protect or defend victims of violence. Even those within the Guatemalan establishment who are trying to improve the situation, as for example the head of the Human Rights Office of the Archbishop of Guatemala, work in insecure and tenuous conditions. This was amply demonstrated in November of this year when the Defense Minister, with the support of

President Serrano, made a strong verbal attack against the head of the Archbishop's Human Rights Office.

Although peace talks between the Government and the insurgent guerrilla group URN continue they are stalled.

A positive development in the past year was the signature, in October, of an agreement between the representatives of Guatemalan refugees living in Mexico and those of the Guatemalan government to allow the return and resettlement of the refugees. Another important event was the award of the Nobel peace prize to Rigoberta Menchu, an indigenous woman who has worked hard on behalf of her people.

### CANADIAN POSITION

The Canadian Government deplores the continuing violations of human rights in Guatemala. We believe that the government is committed in principle to improving the human rights situation. However, it has so far not persevered in the face of powerful vested interests with pursuit of the far reaching reforms necessary to bring about greater equity in society and a sharp decline in human rights abuses.

Canadian officials, both in Ottawa and Guatemala, therefore regularly register our deep concern about the human rights situation to the Government of Guatemala, and often discuss specific cases.

Canada provides aid to a number of Guatemalan non-governmental human rights organizations.

At CHR 47, a resolution on the situation in Guatemala had been adopted under the Advisory Services on the agenda. At CHR 48, the Canadian delegation believed the human rights situation in Guatemala was serious enough to warrant more intensive scrutiny under item 12, and made this clear in Canada's item 12 statement. Despite the efforts of Canada and several other countries, and a report of an independent expert citing serious human rights violations in Guatemala, there was not sufficient support among other delegations to move consideration of Guatemala to item 12. Instead, Canada worked to negotiate a stronger resolution under Advisory Services. In addition to renewing the mandate of the independent expert, the resolution recognizes the persistence of serious human rights violations in Guatemala and opens the door to its consideration under item 12 this year.

The Canadian Government, through its embassy in Guatemala, has been active in facilitating the return of refugees from Mexico. This is being carried out through Canadian membership, with three other countries, France, Mexico and Sweden, in the International Consultation and Support Group for the Return of the Guatemalan Refugees (Spanish acronym: GRICAR).

December 1992

## HUMAN RIGHTS SITUATION IN PERU

### ISSUE

Respect for human rights was not a strong feature of Peruvian life in 1992. Violence against individuals was the most spectacular infringement, while ethnic and economic discrimination were also very widespread. There were also numerous attacks on civil rights and democratic institutions.

However, one must consider the country's widespread climate of violence before attempting to determine what the future of human rights will be in Peru.

### BACKGROUND

The highlight of 1992 was without question the self-inflicted coup d'état (autogolpe) in which President Fujimori took over from himself. In so doing, he abolished the Congress, which was elected when he was, in July 1990, and threw out most of the magistracy. Civil liberties were suspended for about 10 days.

Fujimori had two arguments to justify his action. To begin with, he felt that the corruption of the ruling class and of the judicial system must end. He also wished to put an end to the activities of the terrorist Tupac Amaru Revolutionary Movement (MRTA) and the Shining Path.

International opinion forced the President to prepare a timetable for a return to democracy. National elections for the selection of a constituent assembly on November 22 marked the first step in this direction. National municipal elections were announced for this coming January 23.

Although it is still too early to celebrate a return to democracy in Peru, the acceptable standards were followed in the elections of November 22, which were observed by teams from the OAS, among them an official delegation of 13 Canadians.

Both the terrorist movements and the forces of law and order continue to make a mockery of human rights in Peru, however. A curfew was imposed in Lima from April to December. This has not prevented attacks on ordinary citizens, without regard to class or ethnic origin, from occurring on an unprecedented scale. In September, the police dealt a severe blow to terrorism by arresting Abimael Guzman, leader of the Shining Path. He was tried and sentenced by a military tribunal, composed of anonymous judges (to avoid reprisals). Although the Government can justifiably proclaim at least a partial victory in its

fight against terrorism, the cycle of violence is far from over, as the attacks of late December attest.

In spite of President Fujimori's promises to end human rights violations by the police and military authorities, no significant improvement has occurred over the year. In human rights organizations and other like-minded national and international circles, some consternation has arisen out of President Fujimori's avowed intentions to take Peru out of the Interamerican Human Rights Commission in order to bring back the death penalty in cases of treason, including terrorist crimes. A careful watch must be kept on the government's exact intentions in this respect.

### CANADIAN POSITION

As in the past, Canada is maintaining close ties with Canadian and Peruvian human rights organizations and regular high-level contact with the appropriate government officials.

Canada has played an important role in the OAS and other international bodies in encouraging President Fujimori to work toward a rapid return to democracy. The presence of Canadian observers alongside OAS observers has been noted and appreciated in Peru.

As its positions in the OAS, the UNGA and the CHR indicate, Canada continues to condemn violence in Peru, regardless of its source. It has frequently said that violence and terrorism can be eliminated within the bounds of democratic rules and institutions.

Finally, Canada is standing by its decision of April 6 last not to engage in bilateral government-to-government cooperation, not to authorize sales of military equipment, and to restrict trade relations. For the time being, until the return to democracy has been completed satisfactorily, vigilance is the order of the day.

December 1992

## HUMAN RIGHTS SITUATION IN EL SALVADOR

### ISSUE

The peace accords signed on January 16, 1992 by the Government of El Salvador and the armed opposition Farabundo Marti National Liberation Front (FMLN) ended a terrible twelve year long civil war. An estimated 75 thousand Salvadorans, largely civilians, were killed in the conflict, many thousands more were injured and 1.5 million persons were dislocated or fled the country.

During the civil war gross violations of human rights, including assassination, torture and kidnapping were perpetrated by elements of the Salvadoran military, other government security forces and clandestine "death squads" which were suspected of having links with the military and security forces. The FMLN was also accused of human rights abuses, although to a lesser extent.

Since the cease-fire came into effect on February 1, 1992, the level of violence in El Salvador has decreased substantially. However, the Canadian Government is concerned by continuing incidents of human rights violations in that country.

In accordance with UNCHR resolution 1992/62 and ECOSOC decision 1992/237, a report on the human rights situation in El Salvador was prepared by an Independent Expert, Prof. Pedro Nikken, and submitted to the UNGA on November 13, 1992. Prof. Nikken stated in his report that the termination of the civil war had eliminated a major source of human rights violations. However, he observed that violations of human rights persist and that the resources available to the civil society to combat these violations were inadequate. His report concluded that only rapid and complete fulfilment of the provisions of the peace accords could secure justice and social stability.

### BACKGROUND

Although the civil war in El Salvador ended in 1992, the causes of that conflict remain: widespread poverty, concentration of wealth and power in the hands of an elite, a penchant for the violent resolution of disputes, a sclerotic and corrupt justice system, and political polarization characterized by fear and mistrust.

The Salvadoran peace accords, which incorporate significant reforms to the military, judicial, electoral and social institutions of the country could, if fully implemented, provide the basis for the development of a strong, democratic civil society. Long term commitment by the international community is necessary to ensure that the political, military, legal and social reforms agreed to in the peace accords are carried out.

During the period of "armed peace" from February 1 to December 15, 1992, several serious disputes arose between the Salvadoran government and the FMLN about the interpretation and implementation of the peace accords. Mediation by representatives of the United Nations achieved compromise from both sides on such critical issues as land distribution and the schedule for the demobilization of combatants.

Two important undertakings made in the peace accords remain to be completed. President Cristiani has promised to act, by December 31, 1992, on the report of the Ad Hoc Commission which named military officers that it recommended be relieved of duty. The Truth Commission continues to investigate major incidents of human rights violations which occurred during the civil war, although its final report is not expected until early in 1993.

### CANADIAN POSITION

At the 48th session of the UNCHR, with regard to the peace settlement in El Salvador, Canada supported the appointment of an Independent Expert with a new mandate to observe and report on the human rights situation. At this year's UNGA, the Canadian government's continuing concerns about the human rights situation in El Salvador were again raised in its statement before the Third Committee.

The Canadian Embassy in Guatemala, which is accredited to El Salvador, has in the past year made direct interventions to the Government of El Salvador on a number of high profile human rights cases.

Canada supports the reconstruction and reconciliation process in El Salvador. To this end, CIDA has, to date, provided \$ 1.6 million to projects which will strengthen democratic institutions and integrate former combatants into civil society.

### POINTS FOR DISCUSSION

- What is the most appropriate approach to El Salvador by CHR 49 in the context of the ongoing Security Council-mandated peace process ?









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